

**2013**  
FISCAL YEAR

# WORKERS' COMPENSATION ANNUAL REPORT

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Montana Department of  
**LABOR & INDUSTRY**  
Employment Relations Division



## **WORKERS' COMPENSATION ANNUAL REPORT**

Fiscal Year 2013

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Montana Department of Labor & Industry

Employment Relations Division

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Montana Department of  
**LABOR & INDUSTRY**  
Employment Relations Division





## COMMISSIONER'S INTRODUCTION

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### Montana Department of **LABOR & INDUSTRY** Commissioner's Office

Governor Steve Bullock  
Commissioner Pam Bucy



Dear Colleagues and Fellow Montanans,

It is my honor to present the Workers' Compensation Annual Report for Fiscal Year (FY) 2013 to the Governor, the Legislature, and stakeholders in Montana's workers' compensation system. This report provides a detailed view of workers' compensation statistics and trends, as well as an overview of system activities and Departmental programs.

The Labor-Management Advisory Council (LMAC) has been productive over the past year. The Council listened to Department staff and to representatives from the National Council on Compensation Insurance (NCCI) report on preliminary findings from the 2011 reform; they have reached out and received feedback on workers' compensation in Montana from providers, employers and injured workers; and they have focused in on specific issues that will continue to have an impact on workers' compensation in Montana.

Montana's incident rate is still significantly above the national average and since it is considered a primary cost driver in workers' compensation, LMAC made focusing on safety initiatives a priority. A sub-committee was formed to analyze options and provide recommendations. LMAC, through the Safety Bureau and sub-committee, has begun a Ready to Work pilot project at high schools to train the next generation of Montana workers in a 10 hour OSHA course. In addition, LMAC is reviewing the option of moving to a state-based OSHA program.

NCCI recently reported to Montana stakeholders that loss cost rate level changes for Montana for FY 2015 would be -3.5% based on Montana's experience. According to NCCI, the cumulative change in lost costs from 2007-2014 was a -42.4%. Those changes have been reflected in lower premium payments for Montana employers.

The number of reported claims continues to trend downwards, with a 2.7% decline from FY 2012 to FY 2013, and a 12.3% decline over the last four years. Total payments for medical and indemnity benefits remained almost unchanged from year to year. The Department continues to have fee schedules for the payment of medical services and is one of 44 states in the nation using this tool to contain the growth of medical spending.

There is so much more to share about our workers' compensation system than I can provide you in this brief introduction. I trust that you will find the enclosed report valuable in developing a deeper understanding of the trends and activities taking place in Montana's workers' compensation system and the positive results that come from the collaborative efforts of all stakeholders.

Sincerely,

Pam Bucy, Commissioner

"Building a Stronger Montana"

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## WORKERS' COMPENSATION HIGHLIGHTS

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Montana and other states across the nation continue to monitor workers' compensation, including medical costs, injury and illness rates, system efficiency, and safety awareness, in an effort to reduce costs to employers, provide the best and appropriate care to injured workers, and reduce or eliminate work place injuries.

This report will provide the reader with an in-depth assessment of Montana's workers' compensation system, including system updates, claims and benefits characteristics, dispute resolution outcomes, and Department programs and their functions.

Selected workers' compensation claim highlights for FY13 include:

- Reported claims decreased 2.7%, to 24,950 claims;
- The BLS injury and illness incidence rate remained unchanged from FY11 and FY12, at 5.0 per 100 employees ;
- The most frequent causes of injury were Strains (33%), and Falls, Slips, and Trips (21%);
- The most frequent natures of injury were Sprains and Ruptures (43%), and Cuts and Abrasions (21%);
- Upper Extremities (32%) and the Back (18%) were the most frequent body parts injured;
- Total benefits paid remained stable, with medical paid increasing 2.0 % and indemnity paid decreasing 3.6%;
- Medical benefits comprised 63% of payments on FY13 indemnity claims;
- Temporary disability paid duration (1-year maturity) decreased from 15.0 weeks for FY11 injuries to 14.1 weeks for FY12 injuries;
- From April 2011 to February 2014, there were 899 settlements of medical benefits for best interest, with 77% of the settlements in the amount of \$30,000 or less; and
- Forty-three Independent Medical Reviews were performed by the Department's medical director in FY13, with 51% resulting in a decision of recommended, recommended with conditions, or recommended other guideline treatments.

Selected Employment Relations Division activities for FY13 include:

- Organized the annual Governor's Conference on Workers' Compensation and Occupational Safety and Health in Billings, attended by 312 persons.
- Staff made presentations on workers' compensation and stay at work/return to work at 15 Assistance for Business Clinics across the state and four SafetyFests in Billings, Great Falls, Lincoln and Missoula;
- Provided staff support and research for the Labor-Management Advisory Council (LMAC);
- Completed the first update to the medical fee schedule since the freeze from HB334;
- Updated the Medical Status form;
- Published the "FY12 Workers' Compensation Annual Report" and "Workers' Compensation Key Indicators" documents;
- Presented group and onsite training on workers' compensation statutory changes and program updates to adjusters, attorneys and other stakeholders;
- Staff actively participated in the International Association of Industrial Accident Boards and Commissions (IAIABC) through membership in working committees, including: EDI Council, EDI Claims, Research & Standards, Medical Issues and Disability Management; and
- Staff actively participated in National Institute for Occupational Safety and Health (NIOSH) and Council of State and Territorial Epidemiologists (CSTE) health surveillance committees.







# SECTION 1

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## **MONTANA WORKERS' COMPENSATION SYSTEM**

- Declaration of Public Policy
- Labor-Management Advisory Council
- Insurance Coverage Requirements
- Life of a Claim
- Workers' Compensation Market



# DECLARATION OF PUBLIC POLICY

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It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage loss and medical benefits to a worker suffering from a work-related injury or disease. Wage loss benefits are not intended to make an injured worker whole, but are intended to assist a worker at a reasonable cost to the employer. Within that limitation, the wage loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

It is the intent of the legislature to assert that a conclusive presumption exists which recognizes that a holder of a current, valid independent contractor exemption certificate issued by the Department is an independent contractor if the person is working under the independent contractor exemption certificate. The holder of an independent contractor exemption certificate waives the rights, benefits, and obligations of workers' compensation unless the person elects personal coverage under one of Montana's workers' compensation three options for insurance.

A worker's removal from the workforce because of a work-related injury or disease has a negative impact on the worker, the worker's family, the employer, and the general public. Therefore, an objective of the workers' compensation system is to return a worker to work as soon as possible after the worker has suffered a work-related injury or disease.

Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering. Claimants should be able to speedily obtain benefits, and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

Title 39, chapter 71, MCA must be construed according to its terms and not liberally in favor of any party.

The legislature's intent regarding stress claims, often referred to as mental-mental claims and mental-physical claims, is not to provide for compensation under Montana's workers' compensation and occupational disease laws. The legislature recognizes that these claims are difficult to objectively verify

and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. In addition, not all injuries are compensable under the present system, and it is within the legislature's authority to define the limits of the workers' compensation and occupational disease system.

(§39-71-105, MCA)

# LABOR-MANAGEMENT ADVISORY COUNCIL

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The Labor-Management Advisory Council (LMAC) was recommissioned by the Department of Labor and Industry in June 2013. The goal of the LMAC is to provide a structure for an organized discussion of workers' compensation policy and to monitor the effectiveness of existing reforms. The LMAC will gather information, furnish advice, and make recommendations on workers' compensation to the Commissioner in order to facilitate education, promote mutual cooperation between labor and management and improve the workers' compensation system in Montana.

At the request of Governor Steve Bullock, the Lt. Governor chairs the LMAC. In 2013, the LMAC was chaired by Lt. Governor John Walsh. Lt. Governor Angela McLean will chair the LMAC for the remainder of the appointment.

The LMAC consists of 10 voting members and a subcommittee of five nonvoting members.

The five employer representatives on the LMAC are:

- Bill Dahlgren (Sun Mountain Sports)
- Annette Hoffman (St. Vincent's Healthcare)
- Riley Johnson (National Federation of Independent Business)
- Bob Worthington (Montana Self-Insurers Association)
- Lance Zanto (State of Montana Workers' Compensation Management Bureau)

The five labor representatives are:

- Doug Buman (Laborers' International Union of North America)
- Chris Cavazos (Montana AFL-CIO)
- Don Judge (Injured Workers Resource Council)
- Jim Larson (Teamsters Local 190)
- Al Smith (Montana Trial Lawyers Association)

The LMAC subcommittee members are:

- Bob Olsen (Montana Hospital Association)
- Jean Branscum (Montana Medical Association)
- Kevin Braun (Montana State Fund)
- Bonnie Lyytinen-Hale (Rehabilitation Association of Montana)

- Jacqueline Lenmark (American Insurance Association)

The LMAC's activities in 2013 focused on setting priorities for the upcoming year and establishing a work plan. In addition to evaluating the effect of the 2011 workers' compensation system reforms, the LMAC will work on identifying initiatives, efforts and methods to improve workplace safety and reduce injury rates. In December 2013, the LMAC formed a Safety Committee including representatives from the Montana University System, the Office of Public Instruction, Montana State Fund, and the Montana Chamber of Commerce.

The LMAC members continue to support WorkSafeMT, the private entity formed to direct and coordinate safety and return-to-work programs. Two LMAC members participate on the WorkSafeMT foundation board and committees.

LMAC meetings are open to the public and public comment is encouraged. For more information on the council, visit: <http://www.mtlmac.com>.

# INSURANCE COVERAGE REQUIREMENTS

If you are an employer or an employee, the Workers' Compensation and Occupational Disease Acts apply. An employer who has an employee in service under any appointment or contract of hire, expressed or implied, oral or written, must elect to be bound by the provisions of compensation Plan 1 (self-insured), Plan 2 (private insured), or Plan 3 (Montana State Fund).

**This information is intended to be descriptive. It is not all inclusive, nor is it intended to be used for legal determination of the mandatory coverage requirements.** Please contact The Employment Relations Division at 406-444-0564, or your workers' compensation insurer, concerning coverage requirements and/or excluded or exempted employments.

## EXCLUSIONS

The Workers Compensation Act may exclude from the definition of employee the services listed below:

- Volunteers
- Volunteers at recreational facilities receiving no compensation other than meals, lodging, or the use of the recreational facilities
- Licensed foster parents providing care for no more than 6 foster children without wage compensation
- Farm-owner occasionally assisting his or her neighboring farmers

(§39-71-118, MCA)

## EMPLOYMENTS EXEMPTED

The Workers' Compensation Act may not apply to the employments listed below:

- Household or domestic employment
- Casual employment
- Dependent member of an employer's family for whom an exemption may be claimed by the employer under the Federal Internal Revenue Code
- Sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company
- Real estate, securities or insurance salesperson paid solely by commission without a guarantee of minimum earnings

- A direct seller
- Employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States
- A person performing services in return for aid or sustenance only, except employment of search and rescue volunteers
- Employment with a railroad engaged in interstate commerce, except railroad construction work
- An official, including a timer, referee, umpire or judge, at a school amateur athletic event
- A person performing services as a newspaper carrier or freelance correspondent if acknowledged in writing that the services are not covered
- Cosmetologist's services and barber's services
- A person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the reservation
- A jockey who is performing under a license issued by the Board of Horse Racing, from the time the jockey reports to the scale room prior to a race, through the time weighed out, and has acknowledged in writing that the jockey is not covered while performing services as a jockey
- Trainer, assistant trainer, exercise person or pony person who is providing services under the Board of Horse Racing while on the grounds of a licensed race meet
- An employer's spouse
- A petroleum land professional
- An officer of a quasi-public or a private corporation or manager of a manager-managed limited liability company
- A person who is an officer or a manager of a ditch company
- Service performed by an ordained, commissioned or licensed minister of a church
- Providers of companionship services or respite care, if a family member or legal guardian employs the person providing care

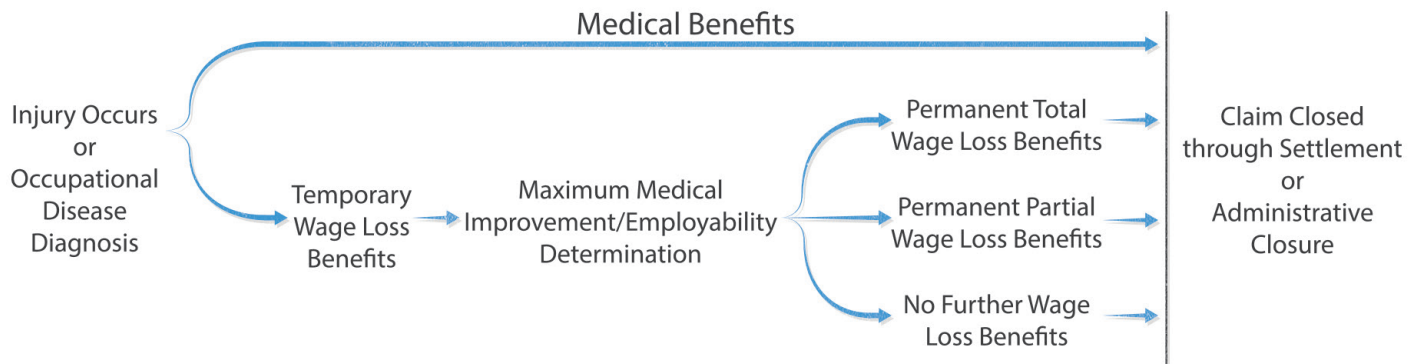
- A person performing services of an intrastate or interstate common or contract motor carrier when hired by an individual or entity who meet the definition of a broker or freight forwarder
- A person who is not an employee or worker in Montana
- Independent Contractors, who maintain a current, valid, independent contractor exemption certificate from the Department
- An athlete employed by or on a team or sports club engaged in a contact sport
- A musician performing under a written contract

(§39-71-401, MCA)

# LIFE OF A CLAIM

## EXHIBIT 1.1

### HIGHLIGHTS OF A COMPENSABLE WAGE LOSS CLAIM



Workplace injuries and illnesses do happen and when a Montana employee files a workers' compensation claim, the life of that claim is dictated primarily by statute. Medical and indemnity (or wage loss) benefits due an injured worker are determined by the statutes in effect at the time of injury. The key requirements and benefits of a recent, typical Montana workers' compensation claim are generally described below. The benefits payable on a claim depend on the specific facts of each claim, and the statutes in effect on the date of injury.

#### REPORTING REQUIREMENTS

When an injury occurs, the injured worker or their authorized representative has 30 days from the date of injury to notify the employer or the insurer (§39-71-603, MCA).

The employer then has 6 days from the date of notification of an injury to report the injury to the insurer or the DLI (§39-71-307, MCA, and ARM 24.29.801).

The claimant or the claimant's representative has 12 months from the date of injury to file a claim, (§39-71-601(1), MCA), or 12 months from the date the claimant knew or should have known of an occupational disease (§39-71-601(3), MCA).

The claim filing time can be extended up to an additional 24 months if it can be proven that the worker was somehow prevented from filing the claim because of something the employer or the insurer

said or did, or if the injury was latent or the worker lacked knowledge of disability (§39-71-601(2), MCA).

The signed claim form or First Report of Injury and Occupational Disease (FROI) (form ERD-991) can be submitted to the employer or sent directly to the insurer or the DLI (§39-71-601(1), MCA).

The insurer shall accept or deny a claim within 30 days of receipt of a signed claim for compensation by the claimant, the employer or the claimant's representative. If the claim is denied, the worker is notified in writing of the denial (§39-71-606, MCA).

If further investigation is needed before the insurer accepts liability and the 30 day limitation for a decision on compensability is due to expire, the insurer may pay wage loss and/or medical benefits without such payment being an indication of admission of liability or waiver of any right of defense (§39-71-608 and §39-71-615, MCA).

#### MEDICAL BENEFITS

For dates of loss prior to July 1, 2011, in addition to using an emergency room or urgent care center, the claimant has the right to select the first treating physician (within the treating physician definition). The insurer must then approve changes of treating physicians. The insurer has the right to deny payment for any unauthorized medical referrals and treatments (§39-71-1101, MCA, and ARM 24.29.1510).

For dates of loss July 1, 2011 and thereafter, the claimant may choose the treating physician for initial treatment. Any time after acceptance of liability the insurer may designate a different treating physician (within the treating physician definition) or approve claimant's choice of the treating physician. The designated treating physician agrees to be responsible for coordination of care, timely workability determinations, treatment under the Utilization and Treatment Guidelines (U&T Guidelines) or prior authorization from the insurer, and referral to other health care providers.

Medical providers bill the insurer directly. Payment is made according to a fee schedule (§39-71-704(2) and (3), MCA). Once the insurer has accepted a claim, the medical provider must accept the fee scheduled reimbursement as payment in full, and the claimant is not responsible for any balance.

The insurer is responsible for reasonable primary medical services, for conditions that are a direct result of the compensable injury or Occupational Disease (OD). An insurer is not responsible for treatment or services outside the U&T Guidelines, unless the insurer authorized prior to the treatment or procedure (§39-71-704(1) and (3), MCA).

For dates of loss prior to July 1, 2011, the claimant is responsible for payment of: (1) unauthorized treatment, (2) medical care not related to the injury, (3) medical services if treatment is not received for 60 months, (4) secondary medical services and palliative or maintenance care unless specifically covered, and (5) medical procedures specifically excluded (§39-71-704, MCA and ARM 24.29.1401).

For dates of loss of July 1, 2011 and thereafter, the claimant is responsible for payment of: (1) unauthorized treatment, (2) medical care not related to the injury, (3) medical services provided 60 months or more after the date of injury or diagnosis of an OD unless medical benefits are reopened, or the claimant is deemed permanently totally disabled, (4) secondary medical services and palliative or maintenance care unless specifically covered, and (5) medical procedures specifically excluded (§39-71-704, §39-71-717, MCA, and ARM 24.29.1401).

For dates of loss prior to July 1, 2011, medical benefits terminate when not used for a period of 60 consecutive months. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved MMI (§39-71-704, MCA).

For dates of loss July 1, 2011 and thereafter, medical benefits terminate 60 months after the date of injury or the date of diagnosis of an OD, unless the claimant is deemed permanently totally disabled, or the medical benefits are reopened. A worker may request reopening of terminated benefits within 5 years of termination. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved MMI (§39-71-704 and §39-71-717, MCA).

### **INDEMNITY OR WAGE LOSS BENEFITS**

The first 4 days or 32 hours (whichever is less) of total wage loss is not compensable. For dates of injury after July 1, 2011, if the worker is totally disabled and unable to work in any capacity for 21 days or longer, compensation must be paid retroactively to the first day of total wage loss. A claimant cannot use sick leave and receive wage loss benefits at the same time (§39-71-736, MCA). Temporary Total Disability (TTD) benefits are based on 66 2/3% of the claimant's average weekly gross wages, subject to a maximum of the state's average weekly wage, and are paid bi-weekly until the claimant returns to work or has reached Maximum Medical Improvement (MMI) (§39-71-701 and §39-71-740, MCA).

If prior to attaining MMI and due to medical restrictions, the claimant returns to work at less than the wages received at the time of injury, they may be entitled to Temporary Partial Disability (TPD) benefits. TPD is paid until the claimant returns to work without a wage-loss or reaches MMI (§39-71-712, MCA).

If after reaching MMI, the claimant has a residual impairment greater than zero and a wage loss, the insurer is required to pay out the Permanent Partial Disability (PPD) liability bi-weekly, unless the claimant requests a lump sum payment (§39-71-703 and §39-71-741, MCA).



PPD benefits may be payable, based on extent of the impairment, the claimant's age, and education, wage-loss and work capacity restrictions. The benefit amount is determined by the specifics of each individual case, and the statutory language in effect on the date of injury (§39-71-703, MCA).

If the worker is precluded from returning to the job they held at the time of injury and suffers an actual wage loss or has an impairment of 15% or greater, the worker is eligible for vocational rehabilitation services.

In these situations, the insurer designates a vocational rehabilitation provider and vocational rehabilitation services are provided with the claimant as soon as possible. If a rehabilitation plan is established which indicates some type of retraining, the claimant may be eligible to receive monies for tuition, fees, books and other reasonable and necessary retraining expenses. The worker may also receive bi-weekly benefit payments based on the TTD rate (§39-71-1006, MCA). Financial assistance may also be available for reasonable travel and relocation for training and job-related expenses, subject to a maximum amount of \$4,000 (§39-71-1025, MCA).

If the claimant is deemed to be Permanently Totally Disabled (PTD), benefits can continue until the claimant reaches retirement age (§39-71-710, MCA).

## WORKERS' COMPENSATION MARKET

Montana employers have three options for securing workers' compensation coverage for their employees. Employers that meet the Department's financial requirements may opt to become self-insured (Plan 1), either individually or by joining with other employers in their industry to form a self-insured group. Employers may also obtain coverage with private insurance companies (Plan 2) in the voluntary market. Finally, employers can insure through Montana State Fund (Plan 3). Montana State Fund's role as the guaranteed market provides assurance that all Montana employers can provide workers' compensation insurance coverage for their employees.

During calendar year 2013, Montana had 25 individual self-insured employers, 3 private groups with 113 member employers, and 5 public groups with 413 member employers. In 2013, there were 208 private carriers that reported premiums to the Department. That compares to 186 private carriers in 2012.

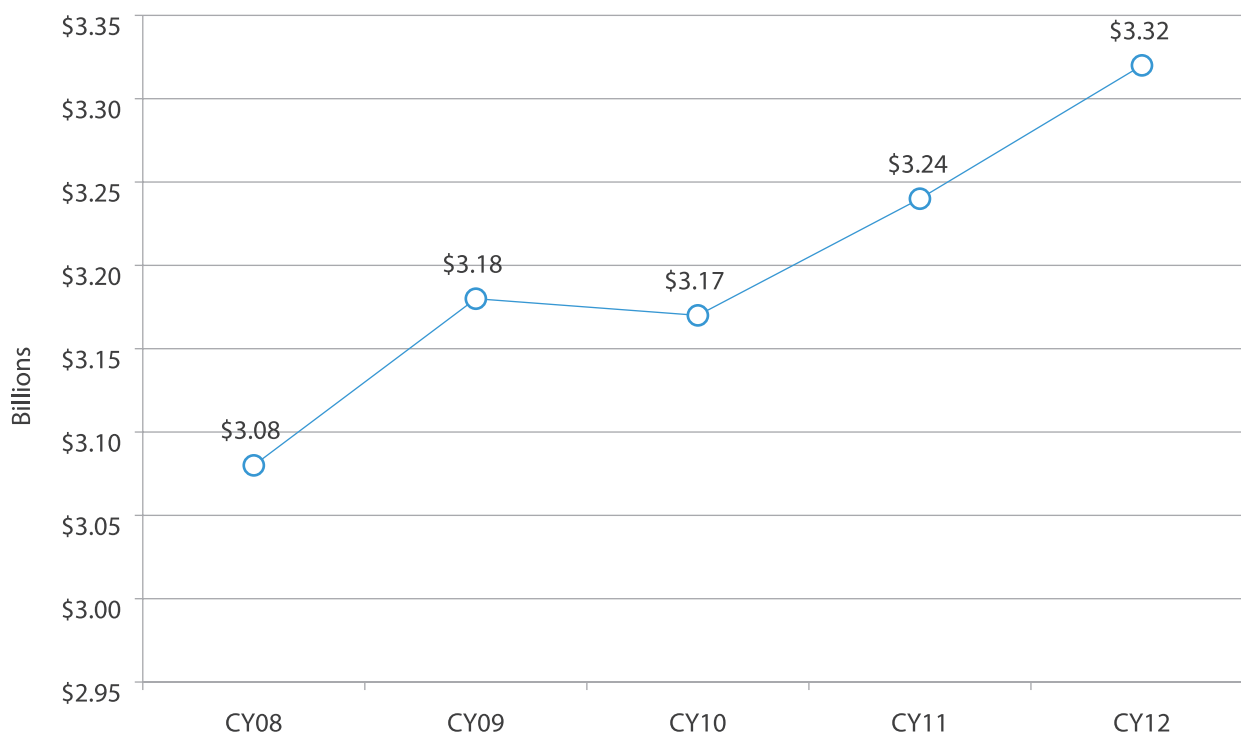
Since self-insured employers typically do not report premium, there is not an "apples to apples" means by which to compare all three Plans' share of the Montana workers' compensation market. The reported payroll for self-insured employers has increased 7.8% since calendar year 2008.

The premium for private insurers and Montana State Fund is compared in Exhibits 1.3 and 1.4 on the next page. The total premium reported for calendar year 2013 by both Plans increased 3.0% from 2012. Montana State Fund reported premium increased 8.1% in 2013, which is the first increase in reported premium for Montana State Fund since 2007.

### EXHIBIT 1.2

#### GROSS ANNUAL PAYROLL - SELF INSURED<sup>1</sup>

By Calendar Year



<sup>1</sup>Payroll data is reported to the Department one year in arrears.

EXHIBIT 1.3

**PREMIUM MARKET SHARE – PRIVATE INSURED AND STATE FUND**

By Calendar Year and By Plan

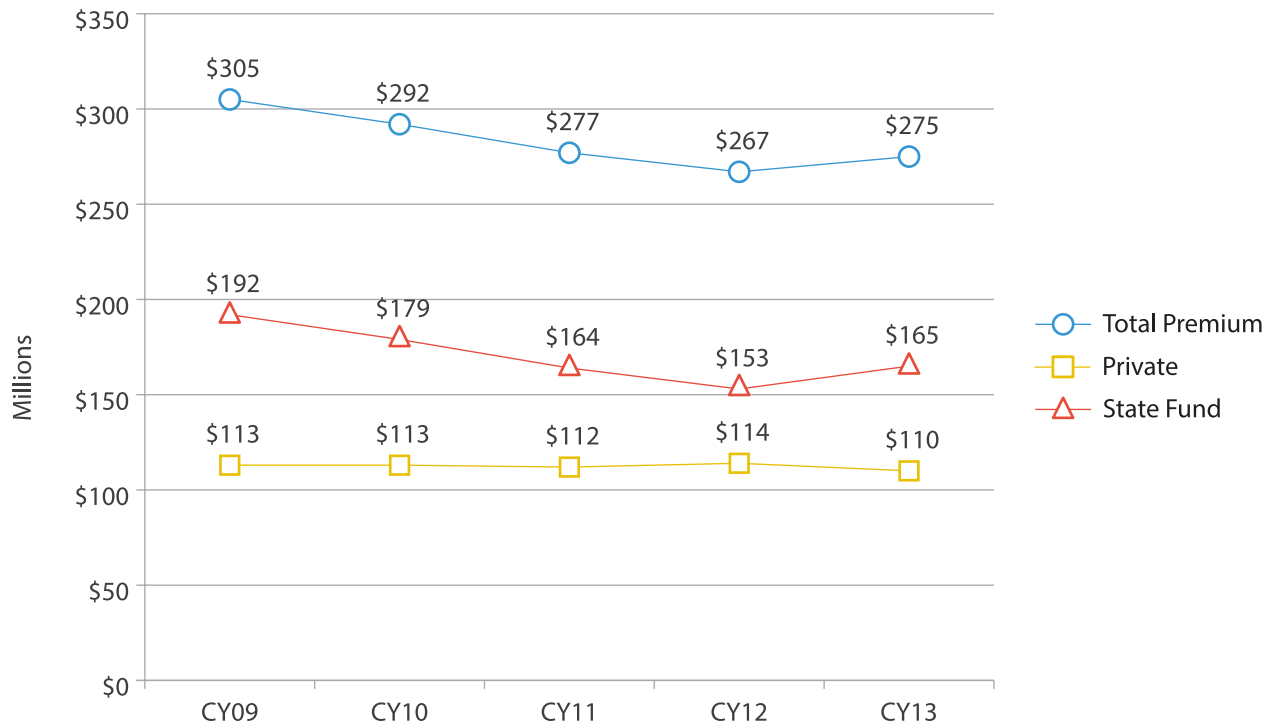


EXHIBIT 1.4

**PREMIUM MARKET SHARE – PRIVATE INSURED AND STATE FUND**

By Calendar Year and By Plan (millions)

	CY09		CY10		CY11		CY12		CY13	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Private	\$112.6	37%	\$113.0	39%	\$112.3	41%	\$114.0	43%	\$109.6	40%
State Fund	\$192.4	63%	\$178.6	61%	\$164.4	59%	\$153.0	57%	\$165.4	60%
Total Premium	\$305.0	100%	\$291.6	100%	\$276.7	100%	\$267.0	100%	\$275.0	100%





# SECTION 2

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## CLAIM STATISTICS

- Incident Rates
- Claim Incident Rates By County
- Claims By Plan Type
- Injured Worker Characteristics
- Insurer Denial Of Claims

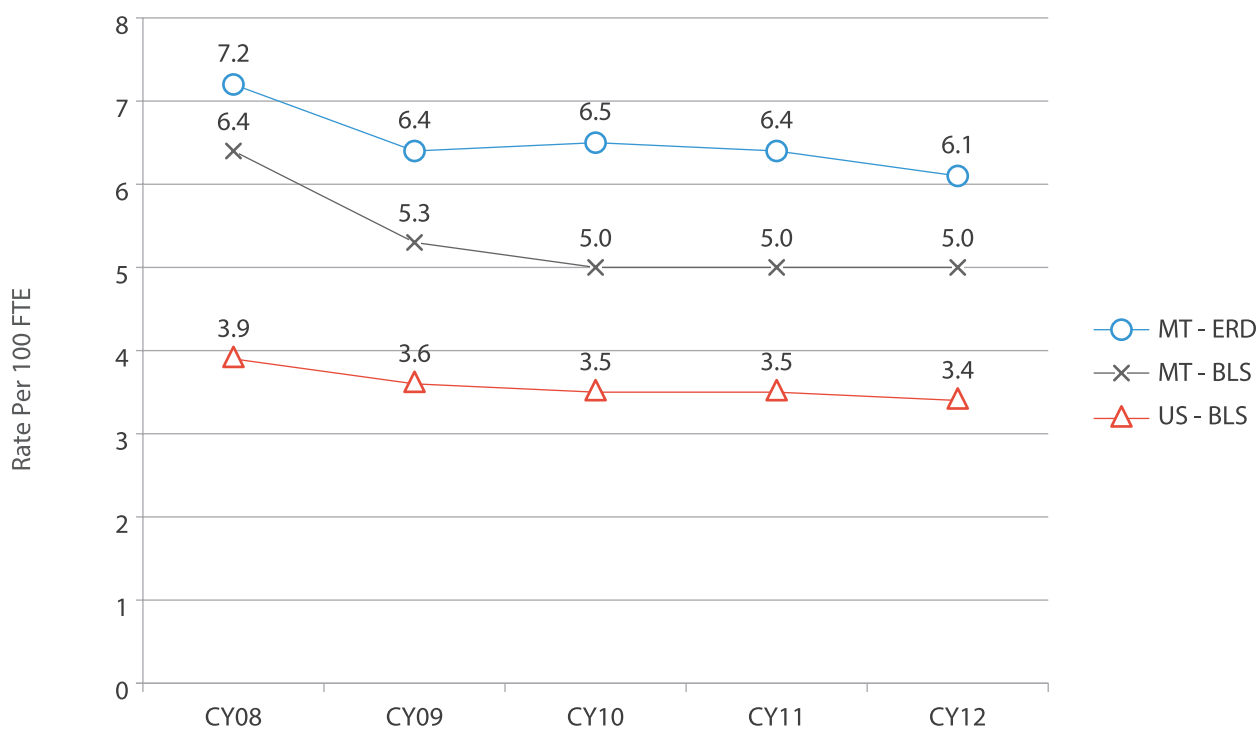


# INCIDENT RATES

In CY12, the Bureau of Labor Statistics (BLS) national injury and illness incident rate was 3.4 per 100 FTE, compared to a Montana rate of 5.0. Montana's BLS incident rate has remained constant since CY10. For comparative purposes, the following exhibit also includes an incident rate based on a census of claim counts, based on reported First Reports of Injury.

ERD's claim incident rate decreased 4.7 percent from CY2011 to CY2012. BLS calculates incidence rates based on the annual Survey of Occupational Injuries and Illnesses.

**EXHIBIT 2.1** **INJURY AND ILLNESS INCIDENT RATES – CY08 TO CY12**  
By Calendar Year of Incident



# CLAIM INCIDENT RATES BY COUNTY

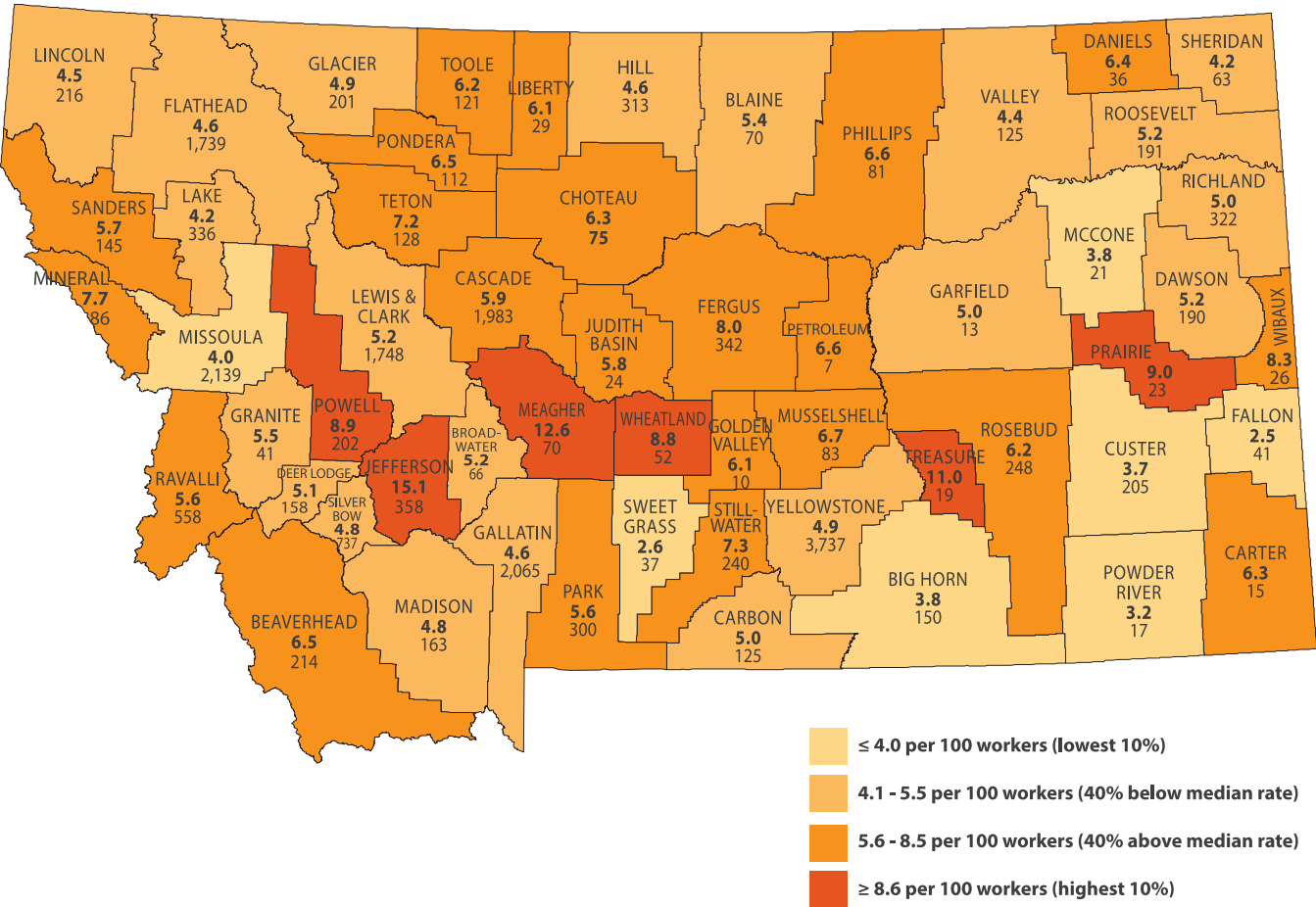
In FY13, the calculated state-wide claim incident rate was 5.9 per 100 employees, compared to 6.1 in FY12, just over a 3% decrease. Claim incidence rates by county were calculated by dividing the number of reported claims in each county by the number of employees per county. The incidence rate decreased in 25 counties and increased in 26 counties in FY13.

Claim counts per county were derived using the location where the injury was reported to have occurred, which differs from the methodology in previous Annual Reports, in which the claimant's home address was used. Thus, incidence rates are not comparable to previous Annual Reports. FY12 incidence rates were recalculated using the new

methodology and the revised chart is included in the Appendices. Individual county-level rates may be underestimated due to missing location data at the county level; the state-level rate was calculated using all reported claims in Montana.

Employment data was obtained from the Quarterly Census of Employment and Wages, Bureau of Labor Statistics (BLS). BLS employment data does not include federal employees, military, self-employed individuals or farms with fewer than 11 employees.

**EXHIBIT 2.2** CLAIM INCIDENT RATE AND NUMBER OF CLAIMS- FY13  
By County





# CLAIMS BY PLAN TYPE

EXHIBIT 2.3

## REPORTED CLAIMS

By Plan Type and Fiscal Year of Injury

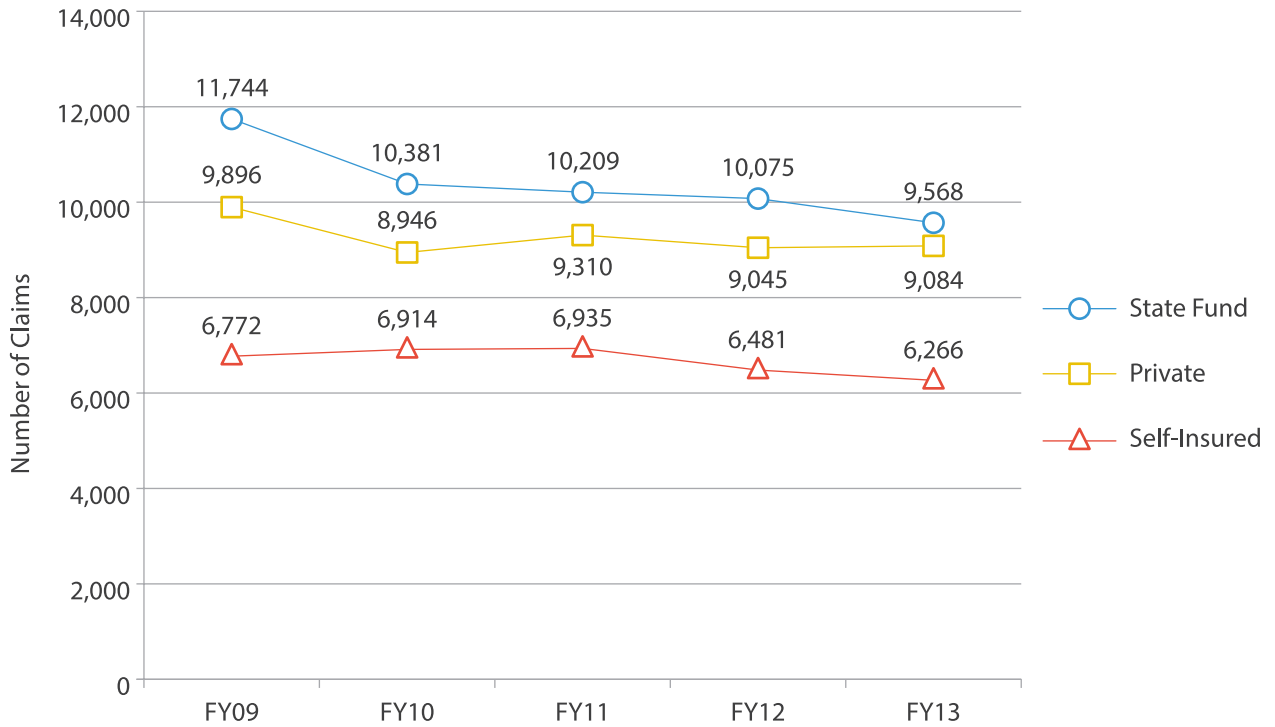


EXHIBIT 2.4

## REPORTED CLAIMS

By Plan Type and Fiscal Year of Injury

	FY09		FY10		FY11		FY12		FY13	
Plan Type	Count	%	Count	%	Count	%	Count	%	Count	%
Self-Insured	6,772	24%	6,914	26%	6,935	26%	6,481	25%	6,266	25%
Private	9,896	35%	8,946	34%	9,310	35%	9,045	35%	9,084	36%
State Fund	11,744	41%	10,381	39%	10,209	39%	10,075	39%	9,568	38%
UEF <sup>1</sup>	52	0%	61	0%	42	0%	49	0%	32	0%
Total	28,464	100%	26,302	100%	26,496	100%	25,650	100%	24,950	100%

<sup>1</sup>UEF-Uninsured Employers' Fund

# INJURED WORKER CHARACTERISTICS

EXHIBIT 2.5

## REPORTED CLAIMS

By Claimant Age at Time of Injury and Fiscal Year of Injury

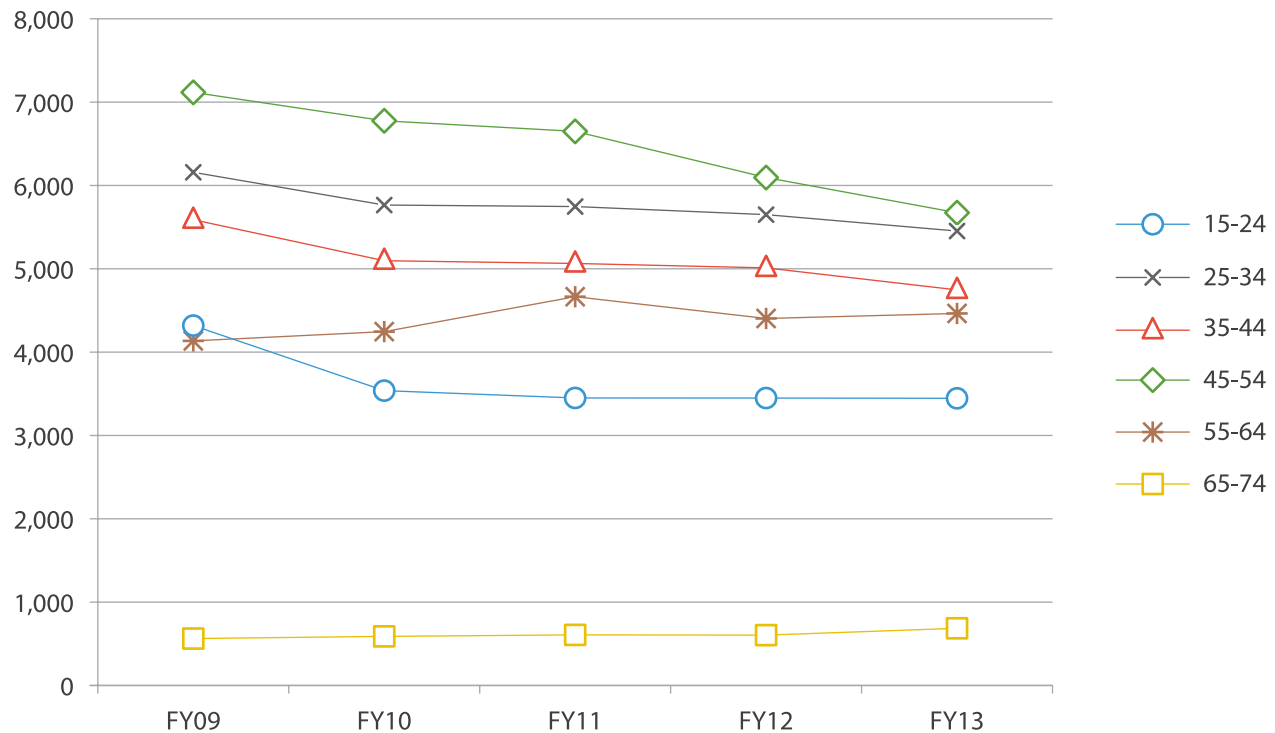


EXHIBIT 2.6

## REPORTED CLAIMS

By Claimant Age at Time of Injury and Fiscal Year of Injury

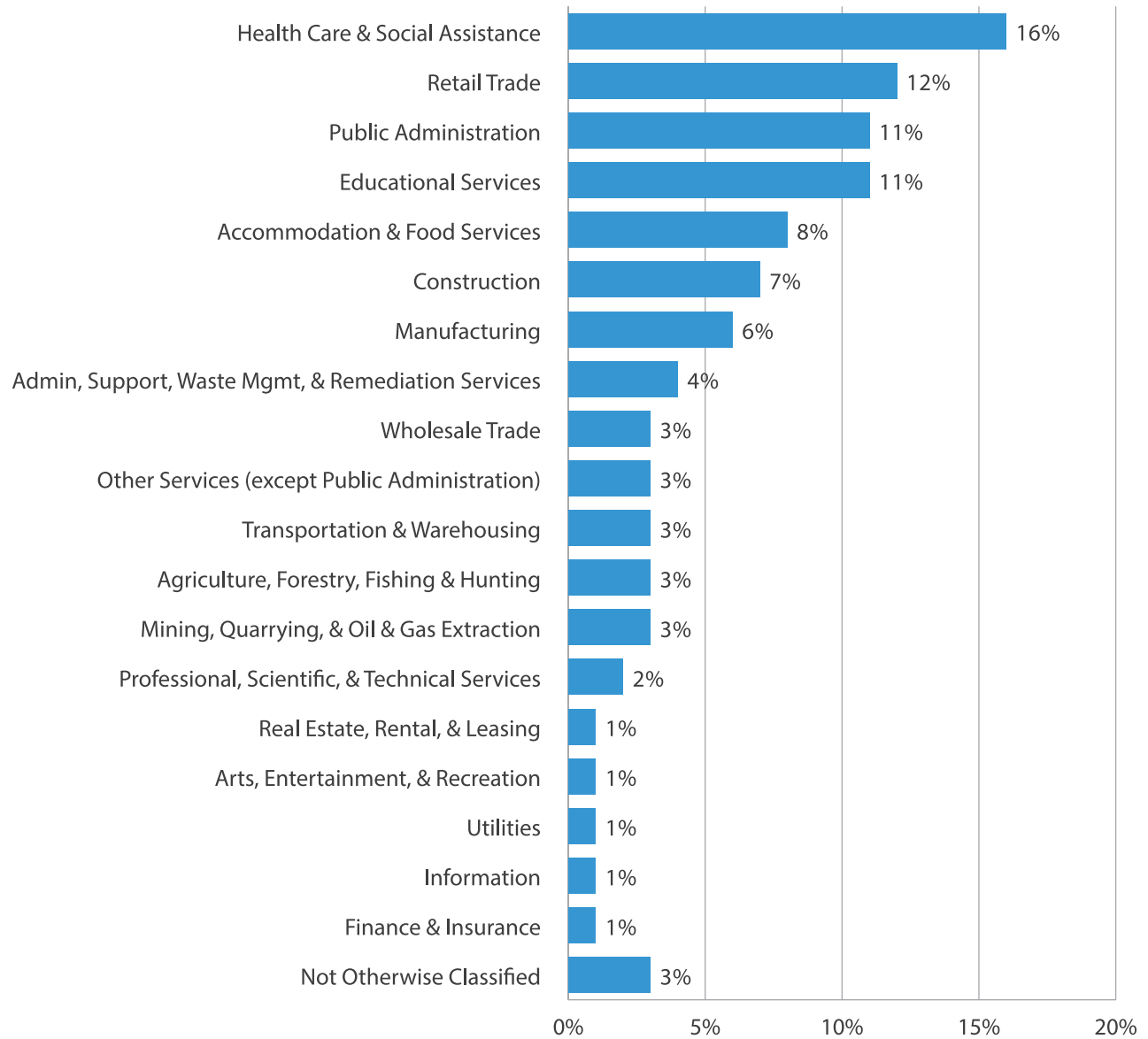
	FY09		FY10		FY11		FY12		FY13	
Age Group	Count	%	Count	%	Count	%	Count	%	Count	%
15 to 24	4,319	15%	3,538	13%	3,450	13%	3,449	13%	3,446	14%
25 to 34	6,158	22%	5,765	22%	5,747	22%	5,650	22%	5,453	22%
35 to 44	5,589	20%	5,097	19%	5,064	19%	5,011	20%	4,747	19%
45 to 54	7,117	25%	6,776	26%	6,649	25%	6,095	24%	5,673	23%
55 to 64	4,135	15%	4,246	16%	4,665	18%	4,404	17%	4,464	18%
65 to 74	563	2%	589	2%	607	2%	604	2%	686	3%
NOC <sup>2</sup>	583	2%	291	1%	314	1%	437	2%	481	2%
Total	28,464	100%	26,302	100%	26,496	100%	25,650	100%	24,950	100%

<sup>2</sup>NOC – Not otherwise classified

## EXHIBIT 2.7

## REPORTED CLAIMS – FY13

By Industry



## EXHIBIT 2.8

### REPORTED CLAIMS

By Industry and Fiscal Year of Injury

	FY09		FY10		FY11		FY12		FY13	
North American Industry Classification System	Count	%	Count	%	Count	%	Count	%	Count	%
Health Care & Social Assistance	4,690	16%	4,631	18%	4,508	17%	4,158	16%	4,040	16%
Retail Trade	3,267	11%	3,374	13%	3,279	12%	3,060	12%	3,095	12%
Public Administration	3,131	11%	3,059	12%	2,951	11%	2,968	12%	2,798	11%
Educational Services	2,882	10%	2,913	11%	3,160	12%	2,762	11%	2,628	11%
Accommodation & Food Services	2,310	8%	1,980	8%	1,949	7%	1,921	7%	1,894	8%
Construction	2,516	9%	1,825	7%	1,762	7%	1,848	7%	1,700	7%
Manufacturing	1,827	6%	1,608	6%	1,581	6%	1,717	7%	1,613	6%
Admin, Support, Waste Mgmt, & Remediation Services	1,192	4%	1,043	4%	1,140	4%	1,105	4%	1,021	4%
Wholesale Trade	864	3%	850	3%	917	3%	894	3%	801	3%
Other Services (except Public Administration)	851	3%	656	2%	675	3%	738	3%	751	3%
Transportation & Warehousing	736	3%	678	3%	804	3%	804	3%	740	3%
Agriculture, Forestry, Fishing & Hunting	1,073	4%	851	3%	745	3%	735	3%	677	3%
Mining, Quarrying, & Oil & Gas Extraction	785	3%	651	2%	708	3%	722	3%	640	3%
Professional, Scientific, & Technical Services	455	2%	414	2%	433	2%	471	2%	442	2%
Real Estate, Rental, & Leasing	292	1%	193	1%	409	2%	398	2%	349	1%
Arts, Entertainment, & Recreation	456	2%	416	2%	432	2%	313	1%	343	1%
Utilities	271	1%	283	1%	278	1%	242	1%	224	1%
Information	259	1%	266	1%	200	1%	196	1%	194	1%
Finance & Insurance	232	1%	218	1%	198	1%	175	1%	166	1%
Management of Companies & Enterprises	4	0%	1	0%	8	0%	11	0%	0	0%
Not Otherwise Classified	371	1%	392	1%	359	1%	412	2%	834	3%
Total	28,464	100%	26,302	100%	26,496	100%	25,650	100%	24,950	100%

EXHIBIT 2.9

**REPORTED CLAIMS – FY13**

By Cause of Injury

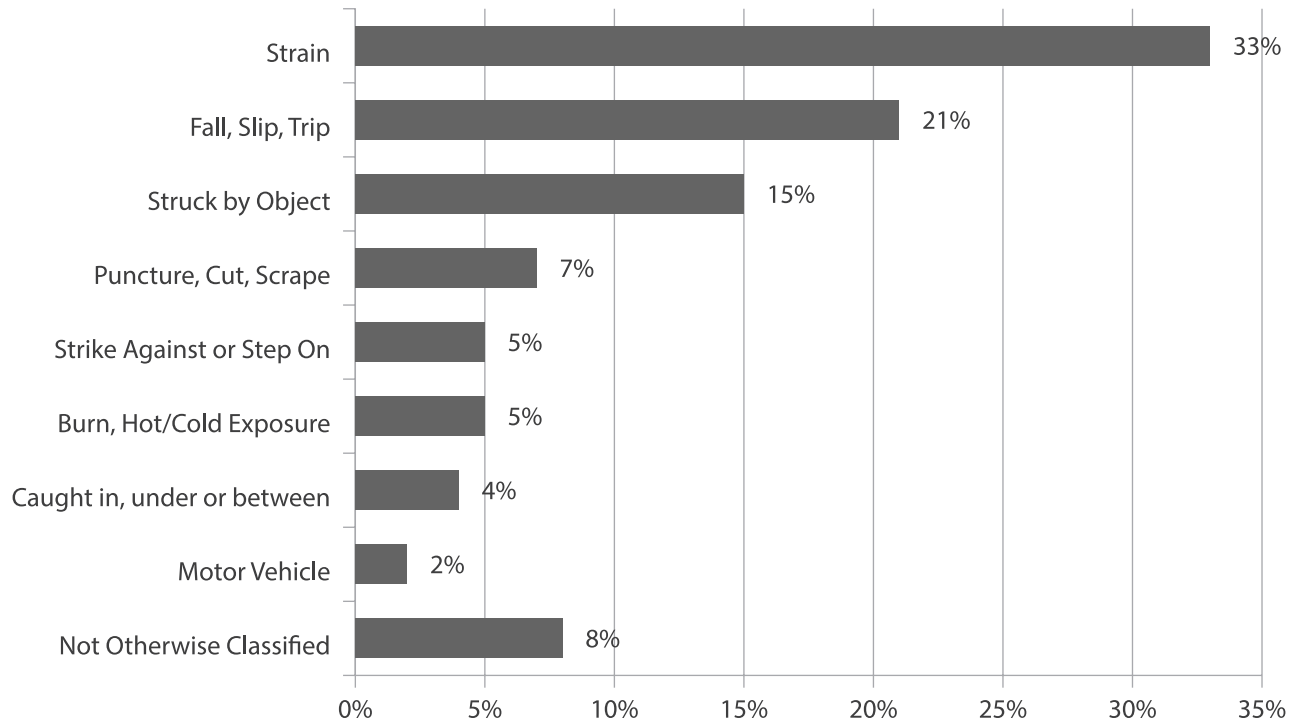


EXHIBIT 2.10

**REPORTED CLAIMS**

By Cause of Injury and Fiscal Year of Injury

	FY09		FY10		FY11		FY12		FY13	
Cause of Injury	Count	%	Count	%	Count	%	Count	%	Count	%
Strain	9,484	33%	9,128	35%	8,557	32%	8,541	33%	8,111	33%
Fall, Slip, Trip	6,410	23%	5,897	22%	6,623	25%	5,232	20%	5,333	21%
Struck by Object	3,890	14%	3,682	14%	3,708	14%	3,917	15%	3,636	15%
Puncture, Cut, Scrape	2,229	8%	1,820	7%	1,723	7%	1,881	7%	1,861	7%
Strike Against or Step On	1,440	5%	1,338	5%	1,345	5%	1,327	5%	1,332	5%
Burn, Hot/Cold Exposure	1,107	4%	1,012	4%	1,094	4%	1,155	5%	1,311	5%
Caught in, under or between	1,309	5%	1,048	4%	1,021	4%	1,053	4%	935	4%
Motor Vehicle	516	2%	538	2%	527	2%	517	2%	513	2%
Not Otherwise Classified	2,079	7%	1,839	7%	1,898	7%	2,027	8%	1,918	8%
Total	28,464	100%	26,302	100%	26,496	100%	25,650	100%	24,950	100%

## INJURED WORKER CHARACTERISTICS

EXHIBIT 2.11

### REPORTED CLAIMS – FY13

By Industry and Cause of Injury

North American Industry Classification System	Cause of Injury									
	Burn, Hot/Cold Exposure	Caught In, Under or Between	Fall, Slip, Trip	Motor Vehicle	Puncture, Cut, Scrape	Strain	Strike Against or Step On	Struck By Object	NOC	Total
Health Care & Social Assistance	226	88	779	55	451	1,403	158	554	326	4,040
Retail Trade	99	140	530	34	289	1,145	165	404	289	3,095
Public Administration	184	97	629	102	94	883	146	450	213	2,798
Educational Services	94	53	919	22	190	587	127	526	175	2,693
Accommodation & Food Services	190	41	429	12	317	511	105	165	147	1,917
Construction	68	81	284	39	101	595	123	262	124	1,677
Manufacturing	91	123	231	17	107	546	105	218	110	1,548
Admin, Support, Waste Mgmt, & Remediation Services	73	49	240	28	25	390	59	88	97	1,049
Wholesale Trade	34	24	132	26	56	297	51	110	71	801
Other Services (except Public Administration)	33	19	155	24	47	258	34	84	71	725
Transportation & Warehousing	26	32	176	50	22	271	39	86	69	771
Agriculture, Forestry, Fishing & Hunting	29	56	175	17	10	170	53	135	38	683
Mining, Quarrying, & Oil & Gas Extraction	30	50	73	18	11	245	35	107	32	601
Professional, Scientific, & Technical Services	32	12	79	20	9	129	18	124	25	448
Real Estate, Rental, & Leasing	16	8	68	7	29	119	21	69	19	356
Arts, Entertainment, & Recreation	10	14	117	5	17	101	13	48	18	343
Utilities	17	8	47	6	10	68	13	30	12	211
Information	2	4	59	8	11	67	6	30	11	198
Finance & Insurance	9	5	54	2	6	51	14	14	7	162
Management of Companies & Enterprises	0	0	0	0	0	0	0	0	0	0
Not Otherwise Classified	48	31	157	21	59	275	47	132	64	834
Grand Total	1,311	935	5,333	513	1,861	8,111	1,332	3,636	1,918	24,950

EXHIBIT 2.12

**REPORTED CLAIMS – FY13**

By Nature of Injury

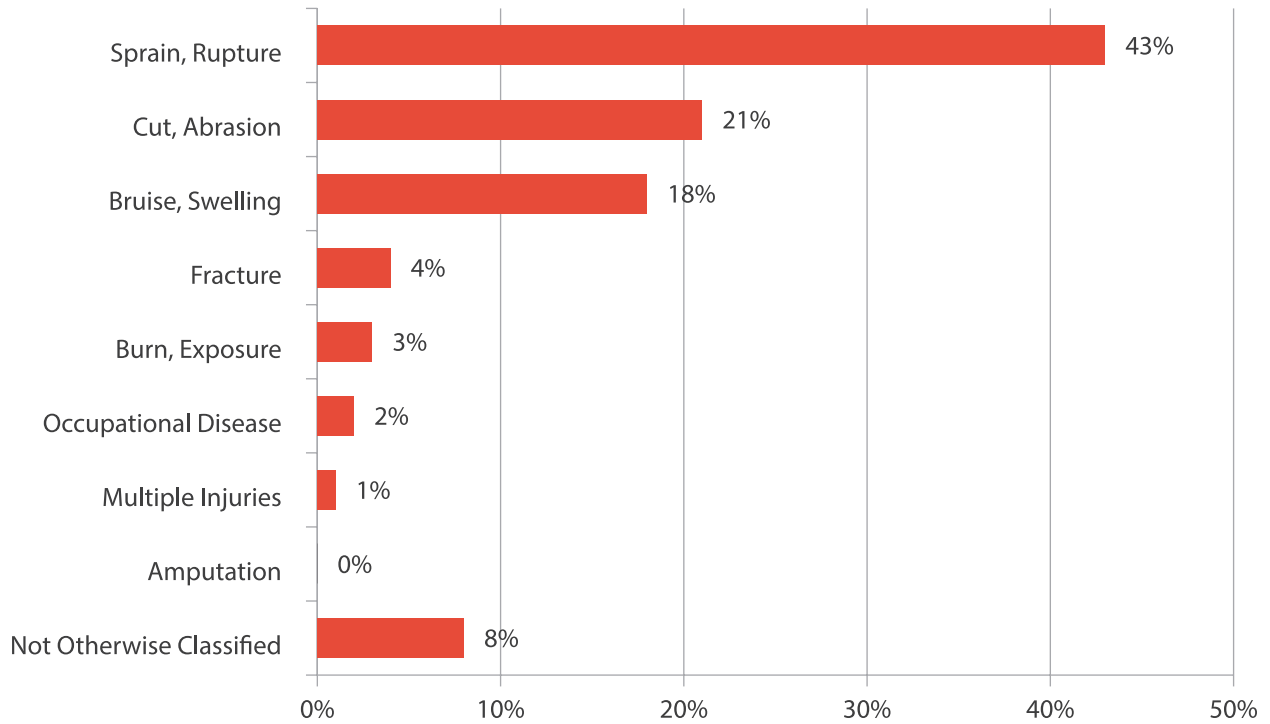


EXHIBIT 2.13

**REPORTED CLAIMS**

By Nature of Injury and Fiscal Year of Injury

	FY09		FY10		FY11		FY12		FY13	
Nature of Injury	Count	%	Count	%	Count	%	Count	%	Count	%
<b>Sprain, Rupture</b>	12,280	43%	11,641	44%	11,642	44%	10,860	42%	10,783	43%
<b>Cut, Abrasion</b>	5,993	21%	5,102	19%	4,948	19%	5,325	21%	5,162	21%
<b>Bruise, Swelling</b>	5,525	19%	5,037	19%	5,085	19%	4,824	19%	4,570	18%
<b>Fracture</b>	1,104	4%	1,036	4%	1,101	4%	1,093	4%	989	4%
<b>Burn, Exposure</b>	727	3%	638	2%	603	2%	589	2%	646	3%
<b>Occupational Disease</b>	619	2%	609	2%	753	3%	617	2%	573	2%
<b>Multiple Injuries</b>	265	1%	191	1%	148	1%	120	0%	147	1%
<b>Amputation</b>	65	0%	77	0%	53	0%	40	0%	49	0%
<b>Not Otherwise Classified</b>	1,886	7%	1,971	7%	2,163	8%	2,182	9%	2,031	8%
<b>Total</b>	28,464	100%	26,302	100%	26,496	100%	25,650	100%	24,950	100%

## INJURED WORKER CHARACTERISTICS

EXHIBIT 2.14

### REPORTED CLAIMS – FY13

By Part of Body

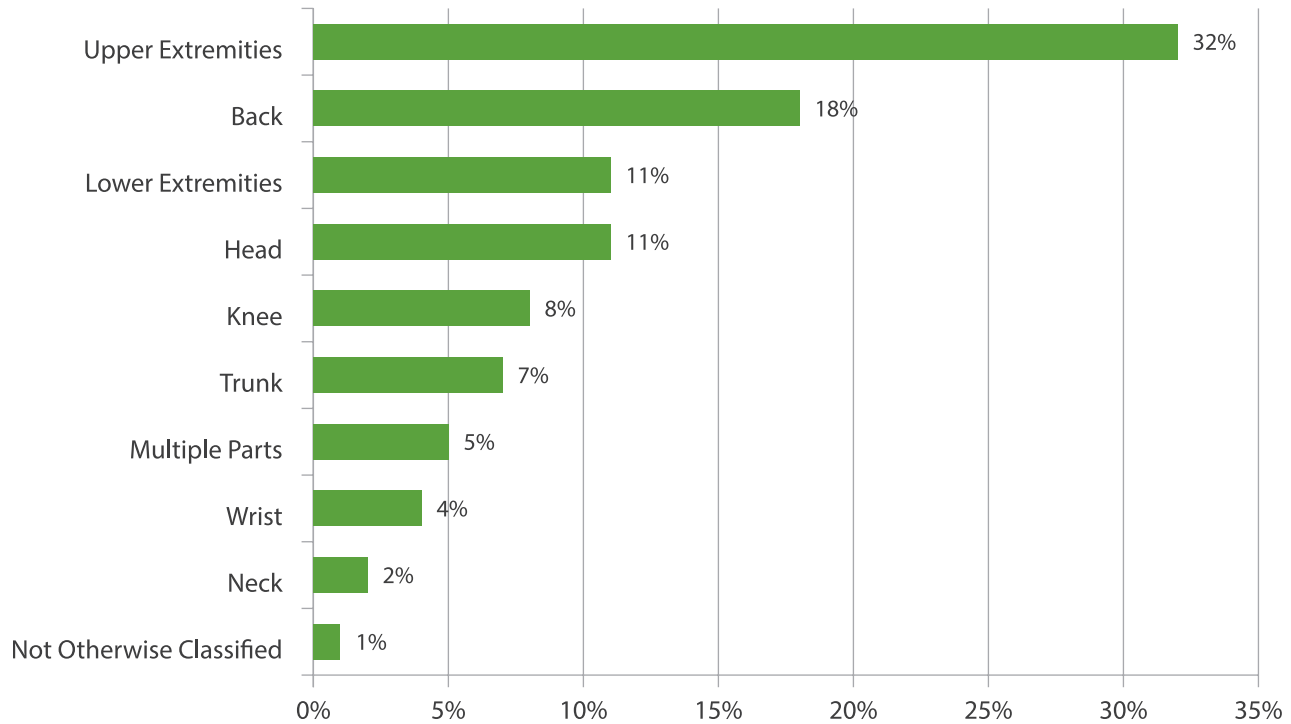


EXHIBIT 2.15

### REPORTED CLAIMS

By Part of Body and Fiscal Year of Injury

	FY09		FY10		FY11		FY12		FY13	
Part of Body	Count	%	Count	%	Count	%	Count	%	Count	%
Upper Extremities	8,967	32%	8,086	31%	8,125	31%	8,174	32%	7,996	32%
Back	5,235	18%	4,925	19%	4,802	18%	4,575	18%	4,419	18%
Lower Extremities	3,212	11%	2,960	11%	3,007	11%	2,940	11%	2,833	11%
Head	3,207	11%	2,845	11%	2,878	11%	2,837	11%	2,726	11%
Knee	2,391	8%	2,257	9%	2,278	9%	2,102	8%	2,113	8%
Trunk	1,816	6%	1,714	7%	1,725	7%	1,719	7%	1,681	7%
Multiple Parts	1,492	5%	1,518	6%	1,655	6%	1,250	5%	1,296	5%
Wrist	1,258	4%	1,147	4%	1,131	4%	1,167	5%	1,103	4%
Neck	638	2%	554	2%	613	2%	585	2%	583	2%
Not Otherwise Classified	248	1%	296	1%	282	1%	301	1%	200	1%
Total	28,464	100%	26,302	100%	26,496	100%	25,650	100%	24,950	100%



# INSURER DENIAL OF CLAIMS

EXHIBIT 2.16

## INSURER DENIAL OF CLAIMS

By Fiscal Year of Injury

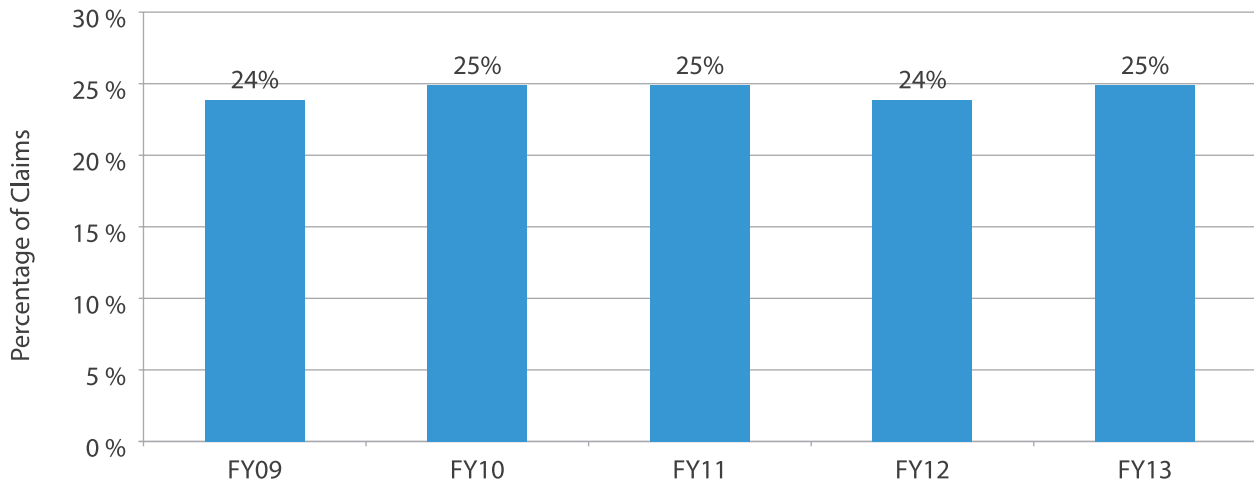


EXHIBIT 2.17

## INSURER DENIAL OF CLAIMS

By Reason of Denial and Fiscal Year of Injury

Reason for Claim Denial		FY09	FY10	FY11	FY12	FY13
Coverage Issue	Corporate officer rejected	0	1	0	1	2
	Elects no coverage	0	3	1	1	0
	Independent Contractor issue	0	0	1	1	0
	Question which insurer liable	18	29	25	36	32
	No coverage	2	3	4	5	5
Definition of Injury	Heart attack - not caused by accident	5	8	2	2	1
	Does not meet definition of injury	270	336	250	199	126
	Does not meet definition of Occupational Disease	36	50	50	42	35
	Stress - not compensable	16	12	17	8	13
Insufficient Information	Incomplete or missing information necessary to accept liability	171	39	91	113	34
Late Claim Filing	Injury	61	159	232	139	180
	Occupational Disease	1	0	0	0	0
No Employer Notice	No 30-day notice to employer or insurer	166	147	110	120	112
Not in Course & Scope	Not in course and scope of employment	435	458	512	506	399
No Objective Medical	No objective medical findings to substantiate injury	4,882	4,817	4,874	4,744	5,018
Other/Not Otherwise Classified		599	384	486	301	219
Total		6,662	6,446	6,655	6,218	6,176





# SECTION

## 3

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### **BENEFITS**

- Total Benefits
- Benefit Distribution
- Temporary Disability Paid Duration
- Settlement Dollars
- Settlement of Medical Benefits for Best Interest
- Injured Worker Attorney Fees
- Insurer Legal Expenses



## TOTAL BENEFITS

The total benefits paid for each fiscal year are compiled from the total dollars that insurers report paid in that year for medical and indemnity benefits, regardless of the original date of injury. This data is compiled from quarterly expenditure reports submitted to the Department by workers' compensation insurers or by claim administrators on the insurers' behalf.

Total benefits paid, and the share of total benefits paid between the three Plans, remained stable from FY12 to FY13. However, total medical payments

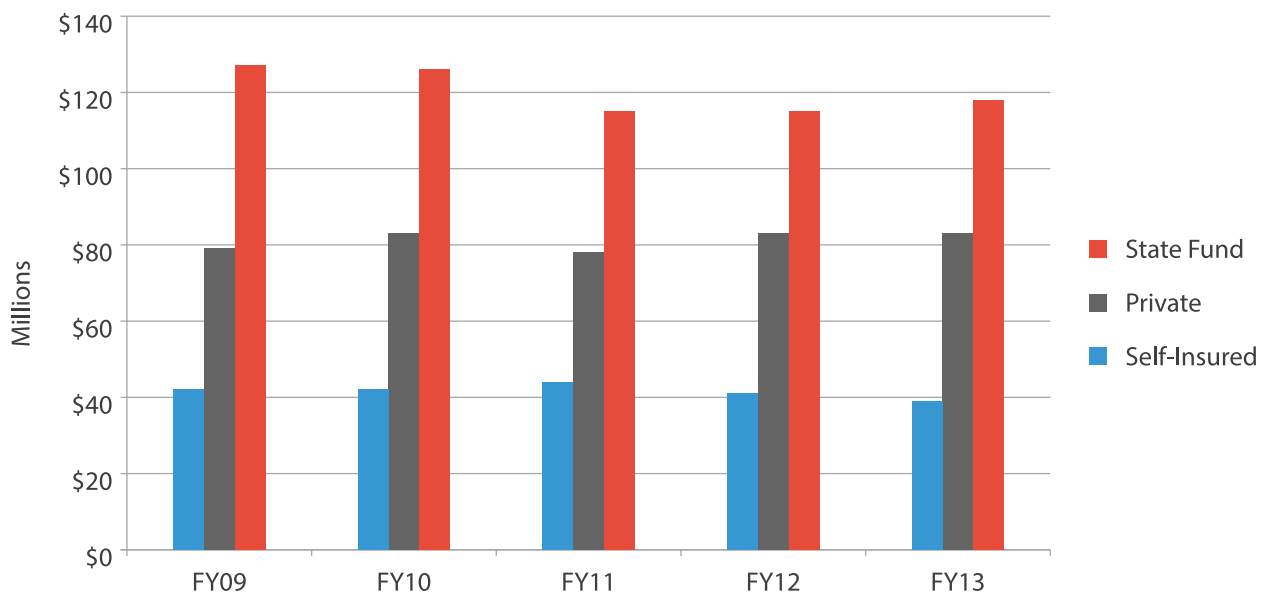
continued to increase, with a 2% increase from FY12 to FY13 and 4.5% since FY09. Indemnity benefits decreased 3.6% from FY12 to FY13 and 17.3% since FY10.

Please note that prior years' benefit totals may have been updated since the publication of previous annual reports due to the receipt of amended quarterly expenditure reports.

### EXHIBIT 3.1

#### TOTAL BENEFITS PAID<sup>1</sup>

By Plan Type and Fiscal Year of Payment



<sup>1</sup>Total benefits paid represent indemnity and medical (including medical in excess of \$200,000) from DLI quarterly expenditure reports.

### EXHIBIT 3.2

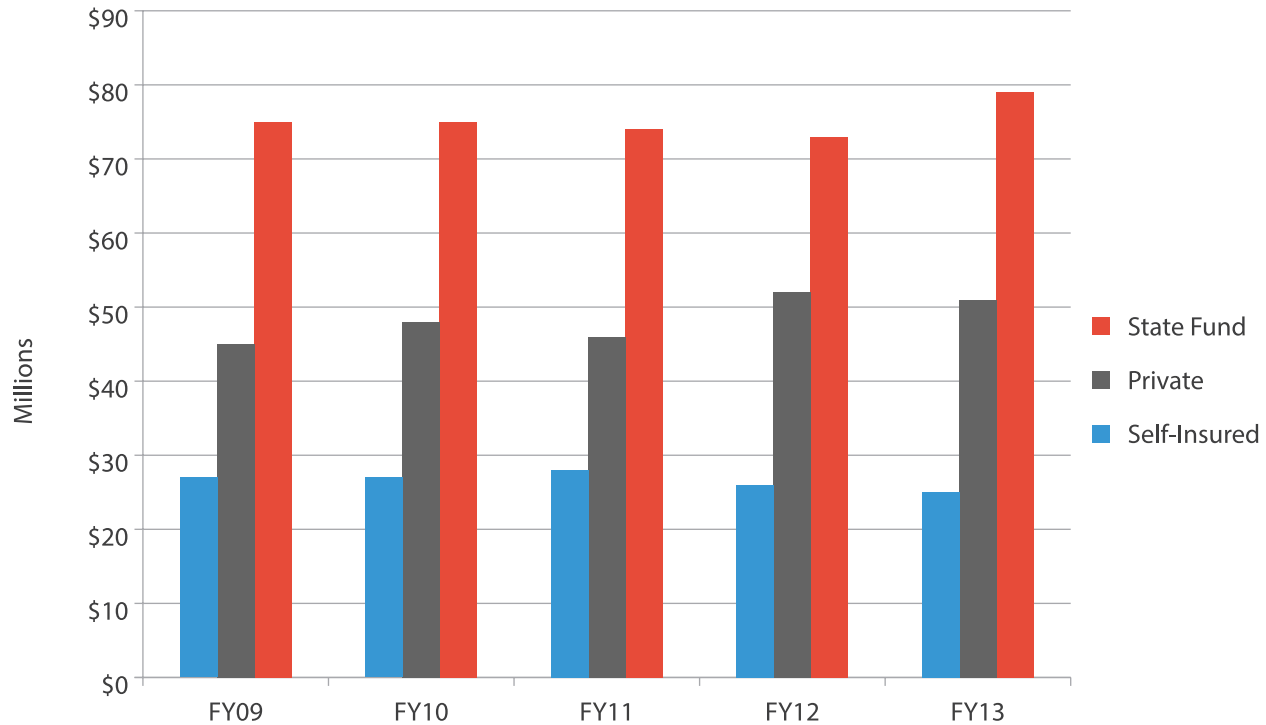
#### TOTAL BENEFITS PAID

By Plan Type and Fiscal Year of Payment

Plan Type	FY09		FY10		FY11		FY12		FY13	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Self-Insured	\$41,874,087	17%	\$42,481,215	17%	\$43,680,403	18%	\$41,062,063	17%	\$38,585,311	16%
Private	\$78,798,463	32%	\$82,556,884	33%	\$77,955,422	33%	\$82,784,689	35%	\$82,517,779	35%
State Fund	\$127,242,162	51%	\$126,405,068	50%	\$115,345,118	49%	\$115,037,148	48%	\$117,694,452	49%
<b>Total</b>	<b>\$247,914,712</b>	<b>100%</b>	<b>\$251,443,167</b>	<b>100%</b>	<b>\$236,980,943</b>	<b>100%</b>	<b>\$238,883,900</b>	<b>100%</b>	<b>\$238,797,542</b>	<b>100%</b>

**EXHIBIT 3.3**
**MEDICAL PAYMENTS<sup>2</sup>**

By Plan Type and Fiscal Year of Payment


<sup>2</sup>Total includes medical in excess of \$200,000, from DLI quarterly expenditure reports.

**EXHIBIT 3.4**
**MEDICAL PAYMENTS**

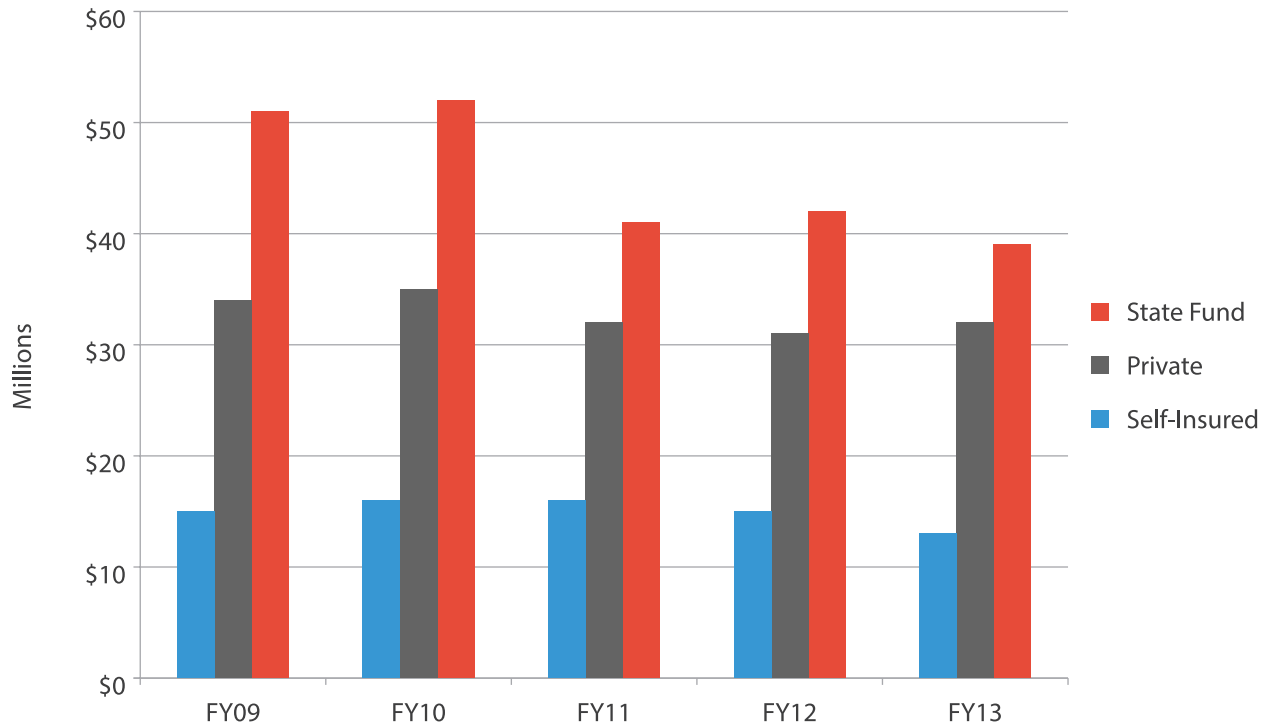
By Plan Type and Fiscal Year of Payment

	FY09		FY10		FY11		FY12		FY13	
Plan Type	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Self-Insured	\$26,615,215	18%	\$26,808,418	18%	\$27,627,722	19%	\$26,422,994	18%	\$25,105,588	16%
Private	\$45,122,485	31%	\$47,638,514	32%	\$45,653,623	31%	\$51,538,641	34%	\$50,653,724	33%
State Fund	\$75,880,013	51%	\$74,791,306	50%	\$73,910,420	50%	\$73,234,300	48%	\$78,502,158	51%
Total	\$147,617,713	100%	\$149,238,238	100%	\$147,191,765	100%	\$151,195,935	100%	\$154,261,470	100%

## EXHIBIT 3.5

## INDEMNITY PAYMENTS

By Plan Type and Fiscal Year of Payment



## EXHIBIT 3.6

## INDEMNITY PAYMENTS

By Plan Type and Fiscal Year of Payment

	FY09		FY10		FY11		FY12		FY13	
Plan Type	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Self-Insured	\$15,258,872	15%	\$15,672,797	15%	\$16,052,682	18%	\$14,639,070	17%	\$13,479,723	16%
Private	\$33,675,978	34%	\$34,918,371	34%	\$32,301,799	36%	\$31,246,048	36%	\$31,864,055	38%
State Fund	\$51,362,149	51%	\$51,613,762	51%	\$41,434,698	46%	\$41,802,848	47%	\$39,192,294	46%
Total	\$100,296,999	100%	\$102,204,930	100%	\$89,789,179	100%	\$87,687,966	100%	\$84,536,072	100%

# BENEFIT DISTRIBUTION

Exhibits 3.7 through 3.12 show various breakdowns of benefits on indemnity claims, using data from Subsequent Reports of Injury (SROIs) received by the

Department. New in this year's Annual Report are Exhibits 3.10, 3.11 and 3.12, which show benefits paid by Cause of Injury, Nature of Injury and Part of Body.

**EXHIBIT 3.7** **TOTAL BENEFITS PAID ON INDEMNITY CLAIMS**  
By Benefit Type and Fiscal Year of Injury

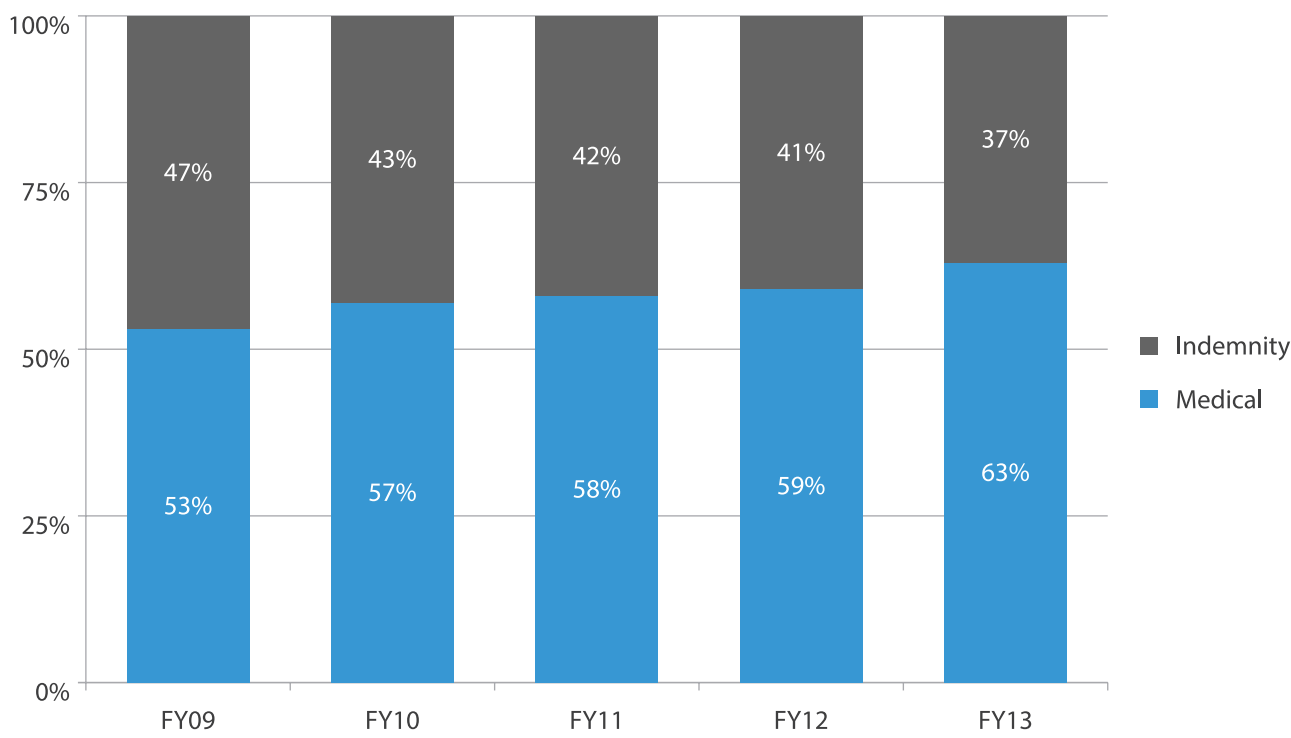
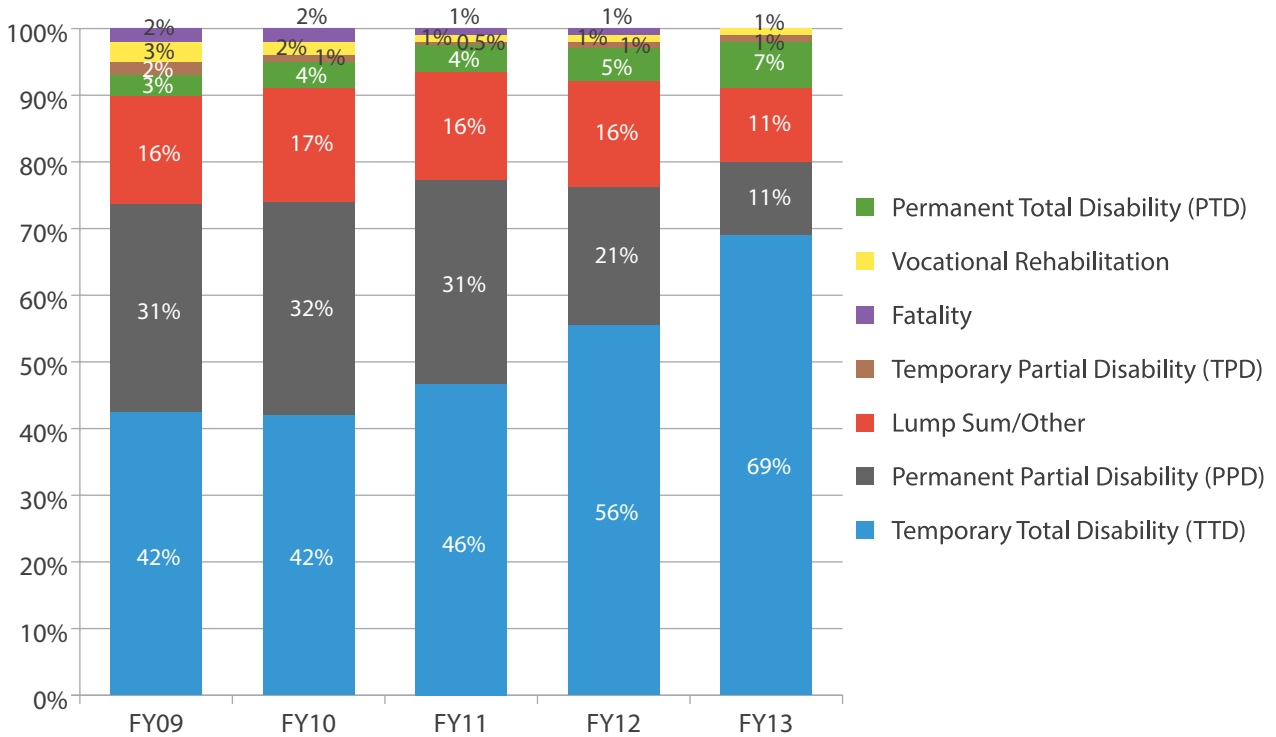




EXHIBIT 3.8

**INDEMNITY BENEFITS PAID<sup>3</sup>**

By Benefit Type and Fiscal Year of Injury



<sup>3</sup>Benefit breakdowns change as claims mature. For example, the percentage of PPD benefits will increase over time since they normally occur later in the life of a claim. Conversely, TTD benefits usually occur earlier in the life of a claim.

EXHIBIT 3.9

**MEDICAL DOLLARS ON INDEMNITY CLAIMS**

By Type of Medical Provider and Fiscal Year of Injury

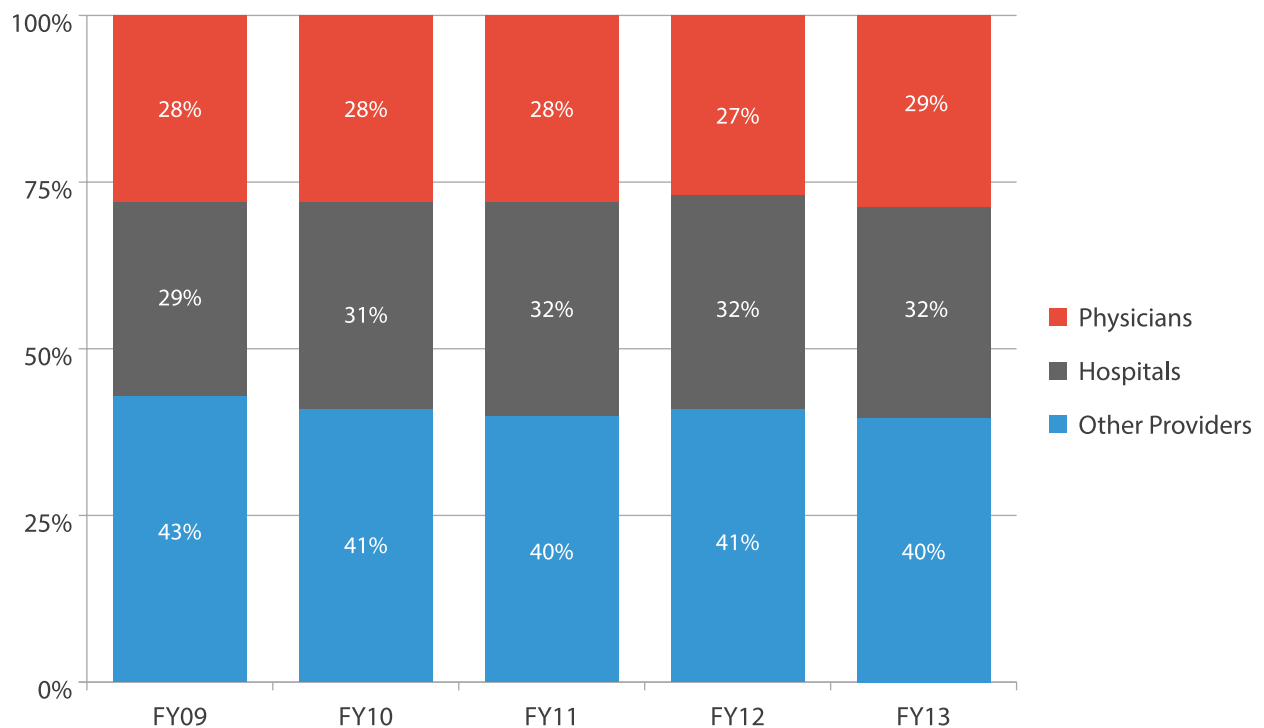
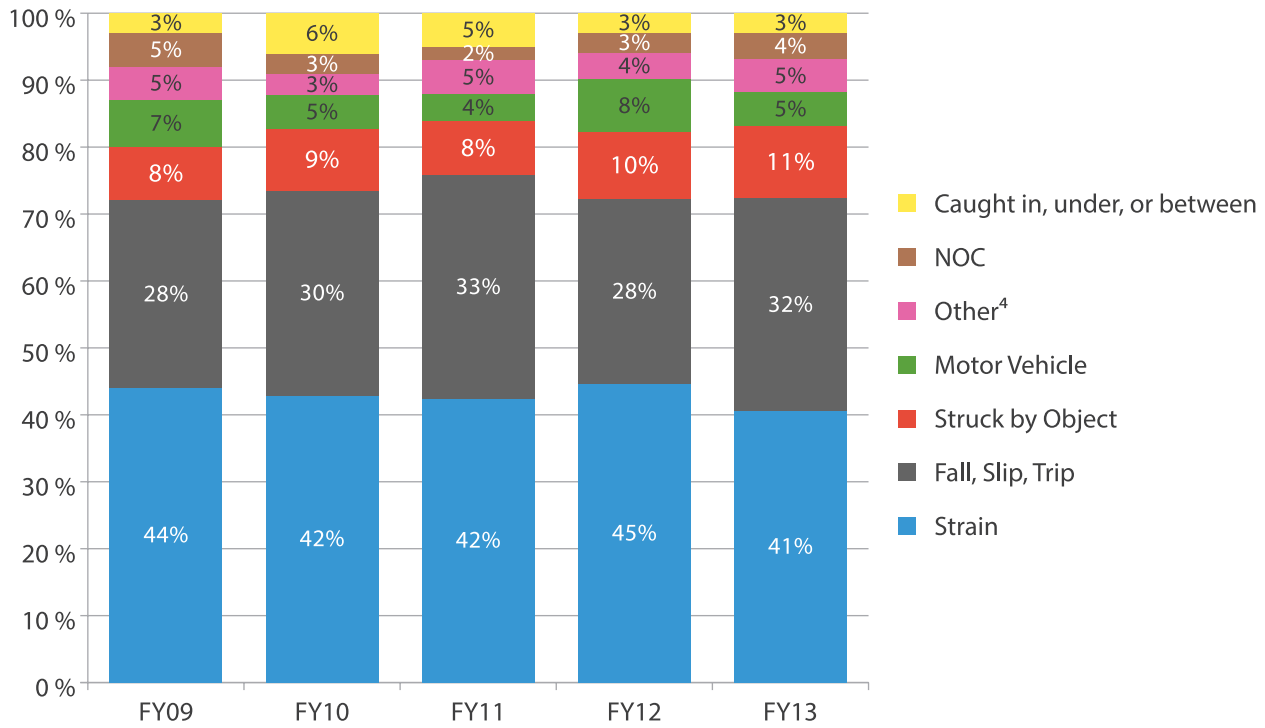


EXHIBIT 3.10

## TOTAL BENEFITS PAID ON INDEMNITY CLAIMS

By Cause of Injury and Fiscal Year of Injury

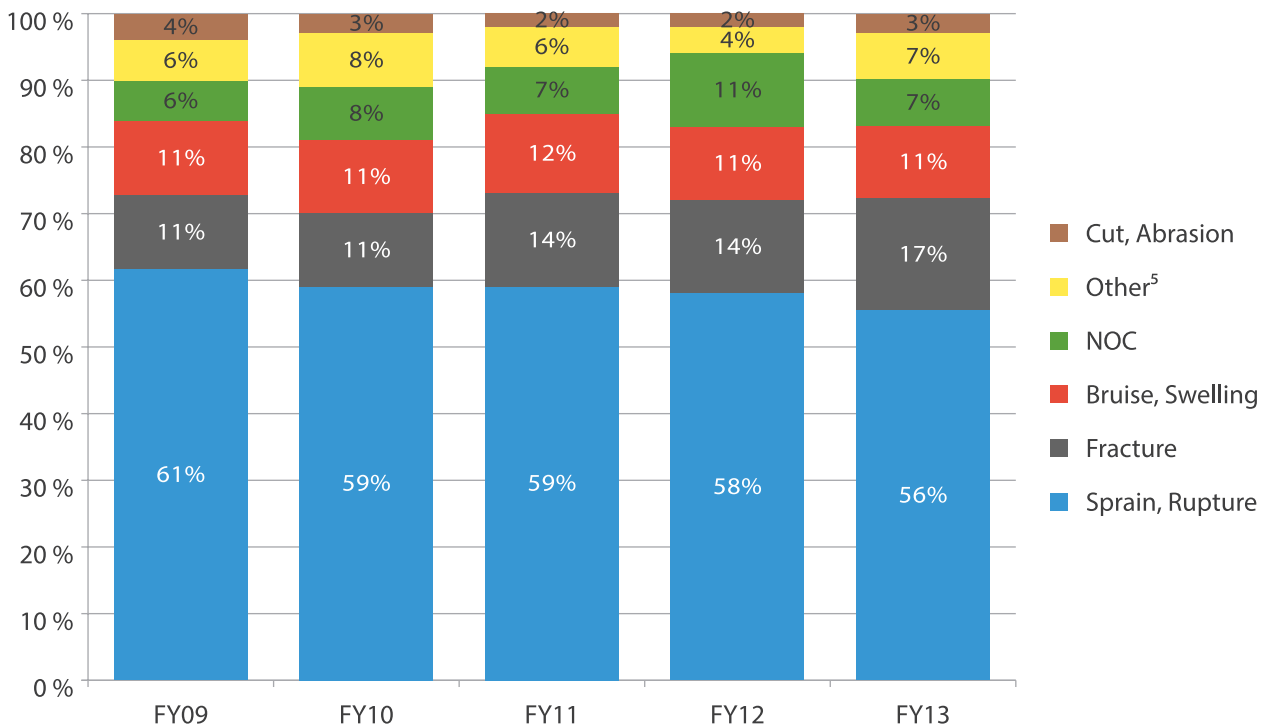


<sup>4</sup>Other includes Strike against or Step on; Burn, Hot/Cold Exposure; Puncture, Cut, Scrape

EXHIBIT 3.11

## TOTAL BENEFITS PAID ON INDEMNITY CLAIMS

By Nature of Injury and Fiscal Year of Injury

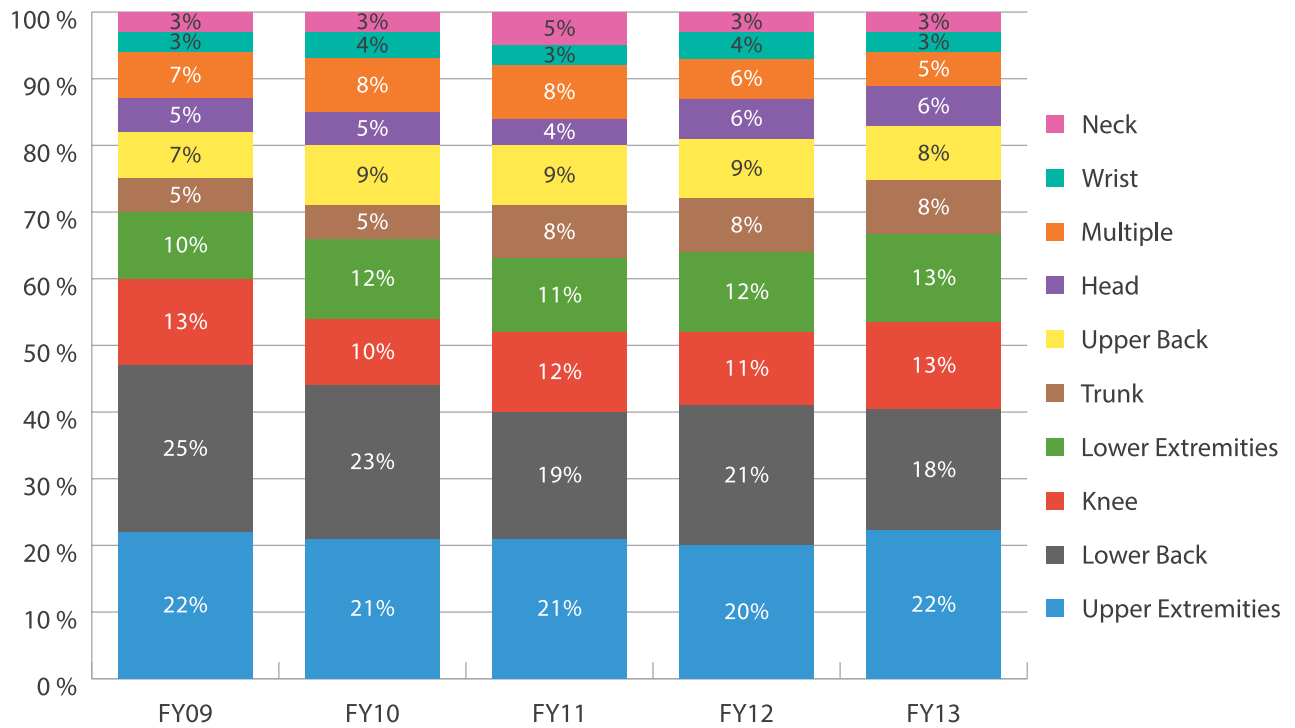


<sup>5</sup>Other includes Amputation; Burn, Exposure; Occupational Disease; Multiple Injuries

EXHIBIT 3.12

TOTAL BENEFITS PAID ON INDEMNITY CLAIMS<sup>6</sup>

By Part of Body and Fiscal Year of Injury

<sup>6</sup>Part of Body as reported on the First Report of Injury.

## BENEFIT DISTRIBUTION

The benefit distributions displayed as histograms in Exhibits 3.13 and 3.14 represent the proportion of claims that fall into different benefit dollar ranges.

For wage loss claims with dates of injury in FY09 to FY13, most wage loss benefits (85%) were \$20,000 or less. Most medical benefits (79%) were \$20,000 or less.

EXHIBIT 3.13

### DISTRIBUTION OF WAGE LOSS BENEFITS PAID – FY09 TO FY13

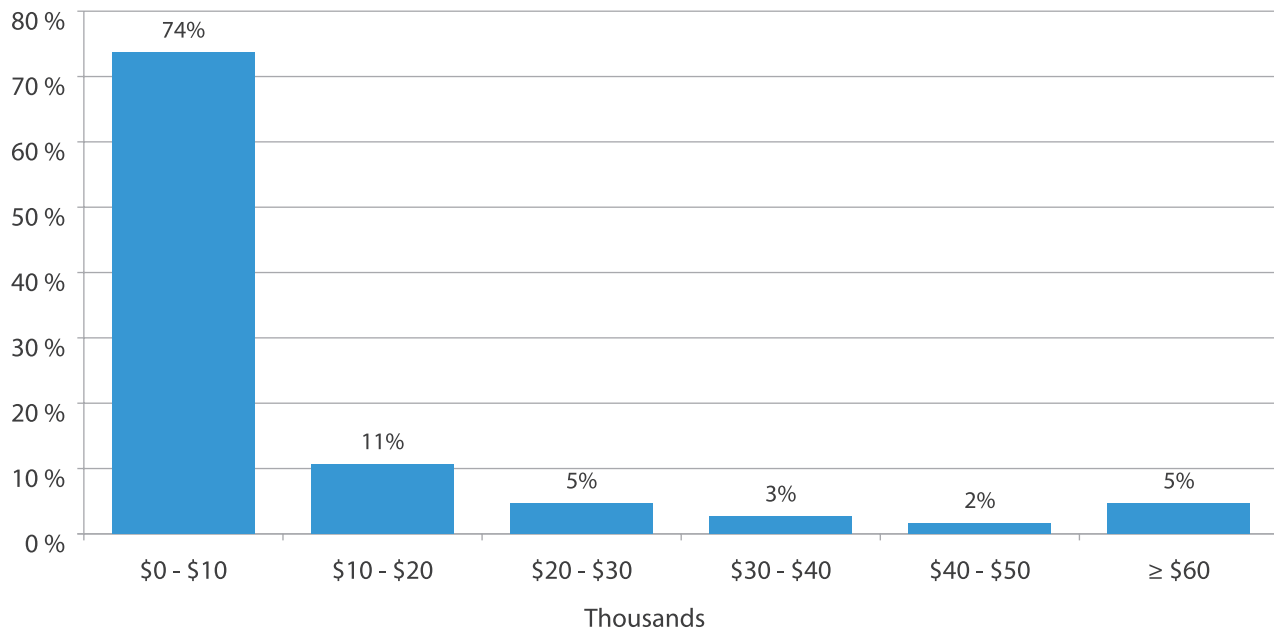


EXHIBIT 3.14

### DISTRIBUTION OF MEDICAL BENEFITS PAID – FY09 TO FY13

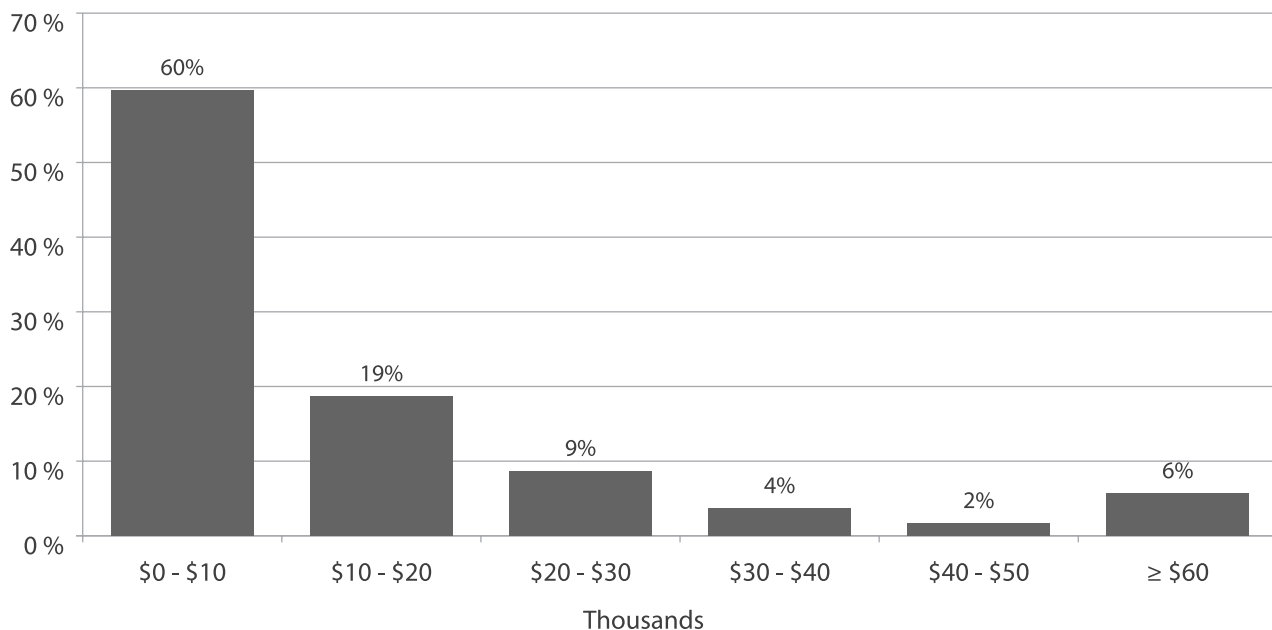


EXHIBIT 3.15

## TOTAL WAGE LOSS: TTD, TPD, PTD, PPD

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2006	Claims	4,678	1,636	850	443	259	152	98	61
	Average Yearly Benefits	\$6,531	\$13,941	\$15,788	\$15,479	\$14,150	\$16,504	\$16,758	\$11,214
	Average Total Benefits	\$6,531	\$24,811	\$39,857	\$53,412	\$58,033	\$72,594	\$84,605	\$91,590
	Percent	62%	22%	11%	6%	3%	2%	1%	1%
2007	Claims	4,441	1,613	815	418	246	138	94	
	Average Yearly Benefits	\$6,716	\$12,503	\$17,100	\$16,032	\$16,487	\$12,176	\$9,759	
	Average Total Benefits	\$6,716	\$22,782	\$39,986	\$54,230	\$62,271	\$69,520	\$77,252	
	Percent	61%	22%	11%	6%	3%	2%	1%	
2008	Claims	4,696	1,703	774	407	205	125		
	Average Yearly Benefits	\$6,277	\$15,438	\$16,295	\$16,809	\$13,707	\$14,211		
	Average Total Benefits	\$6,277	\$25,480	\$38,713	\$52,724	\$61,780	\$75,127		
	Percent	61%	22%	10%	5%	3%	2%		
2009	Claims	4,148	1,640	677	308	157			
	Average Yearly Benefits	\$7,377	\$14,397	\$15,597	\$13,797	\$14,698			
	Average Total Benefits	\$7,377	\$24,959	\$38,681	\$49,953	\$64,870			
	Percent	59%	23%	10%	4%	2%			
2010	Claims	4,006	1,516	580	261				
	Average Yearly Benefits	\$6,416	\$11,865	\$13,144	\$12,263				
	Average Total Benefits	\$6,416	\$21,100	\$34,596	\$49,678				
	Percent	59%	22%	9%	4%				
2011	Claims	3,955	1,512	472					
	Average Yearly Benefits	\$7,106	\$11,359	\$37,722					
	Average Total Benefits	\$7,106	\$22,201	\$66,553					
	Percent	60%	23%	7%					
2012	Claims	3,597	912						
	Average Yearly Benefits	\$6,243	\$14,595						
	Average Total Benefits	\$6,243	\$26,840						
	Percent	72%	18%						
2013	Claims	3,300							
	Average Yearly Benefits	\$5,903							
	Average Total Benefits	\$5,903							
	Percent	100%							

EXHIBIT 3.16

## WAGE LOSS BENEFITS: TEMPORARY TOTAL DISABILITY (TTD)

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2006	Claims	4,308	1,062	500	242	145	92	56	31
	Average Yearly Benefits	\$5,114	\$8,747	\$8,500	\$8,337	\$7,169	\$7,702	\$8,014	\$5,742
	Average Total Benefits	\$5,114	\$18,892	\$28,120	\$35,431	\$37,903	\$41,238	\$47,451	\$55,890
	Percent	94%	23%	11%	5%	3%	2%	1%	1%
2007	Claims	4,139	1,034	474	232	129	68	49	
	Average Yearly Benefits	\$5,336	\$8,554	\$8,898	\$8,631	\$8,569	\$9,712	\$7,667	
	Average Total Benefits	\$5,336	\$18,887	\$29,024	\$36,243	\$43,952	\$52,444	\$62,126	
	Percent	94%	24%	11%	5%	3%	2%	1%	
2008	Claims	4,309	1,065	435	231	115	66		
	Average Yearly Benefits	\$5,091	\$8,655	\$8,841	\$9,016	\$11,849	\$9,398		
	Average Total Benefits	\$5,091	\$19,038	\$27,742	\$36,916	\$46,809	\$58,549		
	Percent	95%	23%	10%	5%	3%	1%		
2009	Claims	3,686	884	369	160	76			
	Average Yearly Benefits	\$5,860	\$9,953	\$10,224	\$8,107	\$10,017			
	Average Total Benefits	\$5,860	\$22,267	\$32,879	\$37,452	\$51,478			
	Percent	95%	23%	10%	4%	2%			
2010	Claims	3,433	786	305	142				
	Average Yearly Benefits	\$5,109	\$8,788	\$9,033	\$7,755				
	Average Total Benefits	\$5,109	\$18,923	\$30,228	\$36,701				
	Percent	95%	22%	8%	4%				
2011	Claims	3,404	802	261					
	Average Yearly Benefits	\$5,476	\$8,839	\$9,508					
	Average Total Benefits	\$5,476	\$19,740	\$33,478					
	Percent	96%	23%	7%					
2012	Claims	3,406	694						
	Average Yearly Benefits	\$5,340	\$9,425						
	Average Total Benefits	\$5,340	\$21,554						
	Percent	97%	20%						
2013	Claims	3,092							
	Average Yearly Benefits	\$5,053							
	Average Total Benefits	\$5,053							
	Percent	100%							

EXHIBIT 3.17

## WAGE LOSS BENEFITS: TEMPORARY PARTIAL DISABILITY (TPD)

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2006	Claims	917	199	65	29	12	5	3	6
	Average Yearly Benefits	\$1,987	\$2,371	\$2,321	\$1,667	\$1,945	\$1,088	\$8,754	\$3,326
	Average Total Benefits	\$1,987	\$5,194	\$4,985	\$6,096	\$6,068	\$1,467	\$10,042	\$8,724
	Percent	90%	19%	6%	3%	1%	0%	0%	1%
2007	Claims	920	202	64	26	18	7	4	
	Average Yearly Benefits	\$2,165	\$2,854	\$2,674	\$2,917	\$2,944	\$459	\$754	
	Average Total Benefits	\$2,165	\$5,538	\$6,863	\$7,630	\$12,026	\$4,163	\$5,365	
	Percent	89%	20%	6%	3%	2%	1%	0%	
2008	Claims	970	188	50	27	18	7		
	Average Yearly Benefits	\$2,036	\$2,468	\$3,372	\$3,990	\$4,306	\$1,781		
	Average Total Benefits	\$2,036	\$5,342	\$7,245	\$11,007	\$14,693	\$7,549		
	Percent	92%	18%	5%	3%	2%	1%		
2009	Claims	876	184	59	26	11			
	Average Yearly Benefits	\$2,163	\$3,443	\$3,550	\$2,800	\$2,575			
	Average Total Benefits	\$2,163	\$6,936	\$9,796	\$13,996	\$12,919			
	Percent	91%	19%	6%	3%	1%			
2010	Claims	881	187	52	24				
	Average Yearly Benefits	\$2,351	\$2,817	\$2,584	\$2,432				
	Average Total Benefits	\$2,351	\$6,000	\$6,732	\$6,745				
	Percent	91%	19%	5%	2%				
2011	Claims	854	166	33					
	Average Yearly Benefits	\$2,240	\$3,127	\$1,683					
	Average Total Benefits	\$2,240	\$6,145	\$6,826					
	Percent	93%	18%	4%					
2012	Claims	777	134						
	Average Yearly Benefits	\$2,066	\$3,225						
	Average Total Benefits	\$2,066	\$6,334						
	Percent	94%	16%						
2013	Claims	794							
	Average Yearly Benefits	\$2,310							
	Average Total Benefits	\$2,310							
	Percent	100%							

EXHIBIT 3.18

## WAGE LOSS BENEFITS: PERMANENT TOTAL DISABILITY (PTD)

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2006	Claims	7	16	23	26	23	20	18	14
	Average Yearly Benefits	\$45,627	\$46,002	\$55,934	\$52,848	\$44,508	\$40,094	\$46,580	\$30,179
	Average Total Benefits	\$45,627	\$59,388	\$76,174	\$60,659	\$66,397	\$75,080	\$103,617	\$96,977
	Percent	11%	25%	37%	41%	37%	32%	29%	22%
2007	Claims	3	15	26	29	28	22	17	
	Average Yearly Benefits	\$39,024	\$10,271	\$92,623	\$46,049	\$48,860	\$18,624	\$9,827	
	Average Total Benefits	\$39,024	\$11,393	\$97,583	\$56,667	\$68,380	\$55,279	\$57,958	
	Percent	5%	27%	47%	53%	51%	40%	31%	
2008	Claims	6	29	25	27	22	23		
	Average Yearly Benefits	\$6,265	\$62,639	\$43,216	\$34,011	\$14,439	\$22,749		
	Average Total Benefits	\$6,265	\$63,604	\$50,993	\$49,853	\$44,110	\$61,868		
	Percent	11%	53%	45%	49%	40%	42%		
2009	Claims	6	10	18	17	17			
	Average Yearly Benefits	\$32,111	\$91,532	\$18,642	\$23,084	\$29,141			
	Average Total Benefits	\$32,111	\$92,286	\$21,733	\$33,823	\$45,656			
	Percent	18%	29%	53%	50%	50%			
2010	Claims	3	13	19	18				
	Average Yearly Benefits	\$3,616	\$29,856	\$34,493	\$14,157				
	Average Total Benefits	\$3,616	\$30,209	\$35,906	\$26,784				
	Percent	10%	45%	66%	62%				
2011	Claims	3	9	17					
	Average Yearly Benefits	\$11,103	\$26,535	\$27,885					
	Average Total Benefits	\$11,103	\$30,236	\$33,327					
	Percent	13%	39%	74%					
2012	Claims	2	8						
	Average Yearly Benefits	\$45	\$30,059						
	Average Total Benefits	\$45	\$30,059						
	Percent	17%	67%						
2013	Claims	1							
	Average Yearly Benefits	\$1,567							
	Average Total Benefits	\$1,567							
	Percent	100%							



EXHIBIT 3.19

## WAGE LOSS BENEFITS: PERMANENT PARTIAL DISABILITY (PPD)

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2006	Claims	888	970	588	300	166	84	49	21
	Average Yearly Benefits	\$7,188	\$12,692	\$13,150	\$11,391	\$9,509	\$11,818	\$6,710	\$3,030
	Average Total Benefits	\$7,188	\$15,432	\$20,993	\$25,159	\$24,496	\$29,310	\$23,217	\$24,313
	Percent	47%	51%	31%	16%	9%	4%	3%	1%
2007	Claims	751	1,000	569	284	157	78	44	
	Average Yearly Benefits	\$7,501	\$10,592	\$12,548	\$11,576	\$9,740	\$7,781	\$8,445	
	Average Total Benefits	\$7,501	\$12,555	\$19,223	\$22,652	\$23,184	\$24,664	\$23,321	
	Percent	40%	54%	31%	15%	8%	4%	2%	
2008	Claims	872	1,166	565	271	111	57		
	Average Yearly Benefits	\$6,340	\$12,687	\$13,305	\$13,774	\$9,478	\$10,837		
	Average Total Benefits	\$6,340	\$14,431	\$20,068	\$26,917	\$24,768	\$22,612		
	Percent	42%	56%	27%	13%	5%	3%		
2009	Claims	1,083	1,215	504	220	102			
	Average Yearly Benefits	\$6,382	\$10,916	\$12,384	\$11,305	\$10,025			
	Average Total Benefits	\$6,382	\$12,619	\$18,320	\$21,947	\$22,586			
	Percent	49%	55%	23%	10%	5%			
2010	Claims	1,234	1,101	403	150				
	Average Yearly Benefits	\$4,927	\$9,233	\$10,121	\$11,907				
	Average Total Benefits	\$4,927	\$10,687	\$14,905	\$23,001				
	Percent	56%	50%	18%	7%				
2011	Claims	1,220	1,082	319					
	Average Yearly Benefits	\$6,160	\$8,621	\$46,357					
	Average Total Benefits	\$6,160	\$11,567	\$58,131					
	Percent	57%	50%	15%					
2012	Claims	320	381						
	Average Yearly Benefits	\$8,229	\$15,865						
	Average Total Benefits	\$8,229	\$17,518						
	Percent	52%	61%						
2013	Claims	188							
	Average Yearly Benefits	\$10,538							
	Average Total Benefits	\$10,538							
	Percent	100%							

EXHIBIT 3.20

## TOTAL MEDICAL: PAYMENTS TO PHYSICIANS, HOSPITALS, AND OTHER MEDICAL PROVIDERS

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2005	Claims	4,448	2,352	1,616	918	750	577	452	355
	Average Yearly Benefits	\$9,526	\$6,640	\$8,742	\$9,065	\$12,882	\$9,702	\$8,737	\$9,037
	Average Total Benefits	\$9,526	\$19,532	\$29,548	\$43,000	\$55,013	\$67,875	\$81,030	\$92,938
	Percent	85%	45%	31%	18%	14%	11%	9%	7%
2006	Claims	4,206	3,170	1,564	1,109	800	589	453	
	Average Yearly Benefits	\$7,626	\$10,142	\$8,480	\$9,569	\$9,053	\$12,383	\$8,274	
	Average Total Benefits	\$7,626	\$17,983	\$31,017	\$40,548	\$49,854	\$64,045	\$71,877	
	Percent	77%	58%	29%	20%	15%	11%	8%	
2007	Claims	4,284	2,782	1,643	990	662	517		
	Average Yearly Benefits	\$11,121	\$8,265	\$9,475	\$8,817	\$9,049	\$9,089		
	Average Total Benefits	\$11,121	\$21,252	\$32,268	\$45,387	\$57,449	\$66,379		
	Percent	80%	52%	31%	19%	12%	10%		
2008	Claims	4,738	2,839	1,447	925	640			
	Average Yearly Benefits	\$10,247	\$9,206	\$9,628	\$10,006	\$9,303			
	Average Total Benefits	\$10,247	\$21,801	\$35,840	\$49,020	\$62,549			
	Percent	85%	51%	26%	17%	12%			
2009	Claims	4,175	2,567	1,342	797				
	Average Yearly Benefits	\$10,966	\$9,377	\$9,246	\$7,632				
	Average Total Benefits	\$10,966	\$22,605	\$36,108	\$47,570				
	Percent	83%	51%	27%	16%				
2010	Claims	4,027	2,462	1,127					
	Average Yearly Benefits	\$11,126	\$9,965	\$8,404					
	Average Total Benefits	\$11,126	\$24,007	\$39,379					
	Percent	86%	53%	24%					
2011	Claims	4,061	2,332						
	Average Yearly Benefits	\$12,281	\$8,643						
	Average Total Benefits	\$12,281	\$24,508						
	Percent	88%	51%						
2012	Claims	3,558							
	Average Yearly Benefits	\$10,595							
	Average Total Benefits	\$10,595							
	Percent	100%							

EXHIBIT 3.21

## VOCATIONAL REHABILITATION BENEFITS

Injury Year	Category	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
2006	Claims	474	567	215	91	24	18	8	6
	Average Yearly Benefits	\$3,101	\$4,278	\$5,773	\$5,340	\$7,718	\$6,682	\$7,320	\$4,280
	Average Total Benefits	\$3,101	\$5,386	\$8,410	\$9,748	\$13,902	\$11,886	\$14,941	\$14,032
	Percent	57%	68%	26%	11%	3%	2%	1%	1%
2007	Claims	535	553	210	50	21	11	3	
	Average Yearly Benefits	\$3,162	\$3,664	\$4,531	\$6,639	\$7,034	\$9,907	\$1,649	
	Average Total Benefits	\$3,162	\$4,487	\$7,042	\$13,492	\$15,046	\$24,510	\$6,378	
	Percent	62%	64%	24%	6%	2%	1%	0%	
2008	Claims	610	587	118	39	16	6		
	Average Yearly Benefits	\$2,628	\$4,088	\$5,415	\$7,292	\$6,956	\$5,394		
	Average Total Benefits	\$2,628	\$4,840	\$8,024	\$13,004	\$16,642	\$13,303		
	Percent	70%	68%	14%	4%	2%	1%		
2009	Claims	463	234	66	36	18			
	Average Yearly Benefits	\$2,896	\$4,308	\$7,556	\$13,060	\$11,212			
	Average Total Benefits	\$2,896	\$5,433	\$9,848	\$18,471	\$27,469			
	Percent	91%	46%	13%	7%	4%			
2010	Claims	82	91	48	20				
	Average Yearly Benefits	\$2,565	\$5,420	\$6,421	\$7,274				
	Average Total Benefits	\$2,565	\$5,857	\$9,424	\$16,804				
	Percent	47%	52%	27%	11%				
2011	Claims	39	86	25					
	Average Yearly Benefits	\$4,036	\$5,020	\$11,057					
	Average Total Benefits	\$4,036	\$5,282	\$14,306					
	Percent	29%	64%	19%					
2012	Claims	27	60						
	Average Yearly Benefits	\$3,726	\$6,335						
	Average Total Benefits	\$3,726	\$6,801						
	Percent	31%	68%						
2013	Claims	24							
	Average Yearly Benefits	\$4,715							
	Average Total Benefits	\$4,715							
	Percent	100%							

## TEMPORARY DISABILITY PAID DURATION

Disability duration is an important measure of how quickly injured workers return to work. Claims with Temporary Total Disability (TTD) or Temporary Partial Disability (TPD) or both were considered to calculate the average paid disability duration of injured workers in Montana from FY06 to FY12.

We calculated the paid disability duration as the total TTD payments plus TPD payments on each claim divided by the reported weekly benefit rate for each claim. The weekly benefit rate value was chosen by the following rules:

If TTD WBR (weekly benefit rate) was available; TTD WBR was used for both TTD and TPD;

If TTD WBR was not available, TPD WBR was used for both TTD and TPD;

If neither TTD WBR nor TPD WBR was available, cases were excluded.

Extremely high (>\$672) or low weekly benefit rate (<\$60) values were excluded from the analysis due to data quality concerns. For 1-year maturity, the longest maturity cannot be beyond 52 weeks and the longest 3-year maturity was capped at 157 weeks.

EXHIBIT 3.22

### TEMPORARY DISABILITY PAID DURATION – 1 YEAR MATURITY

By Plan Type and Fiscal Year of Injury

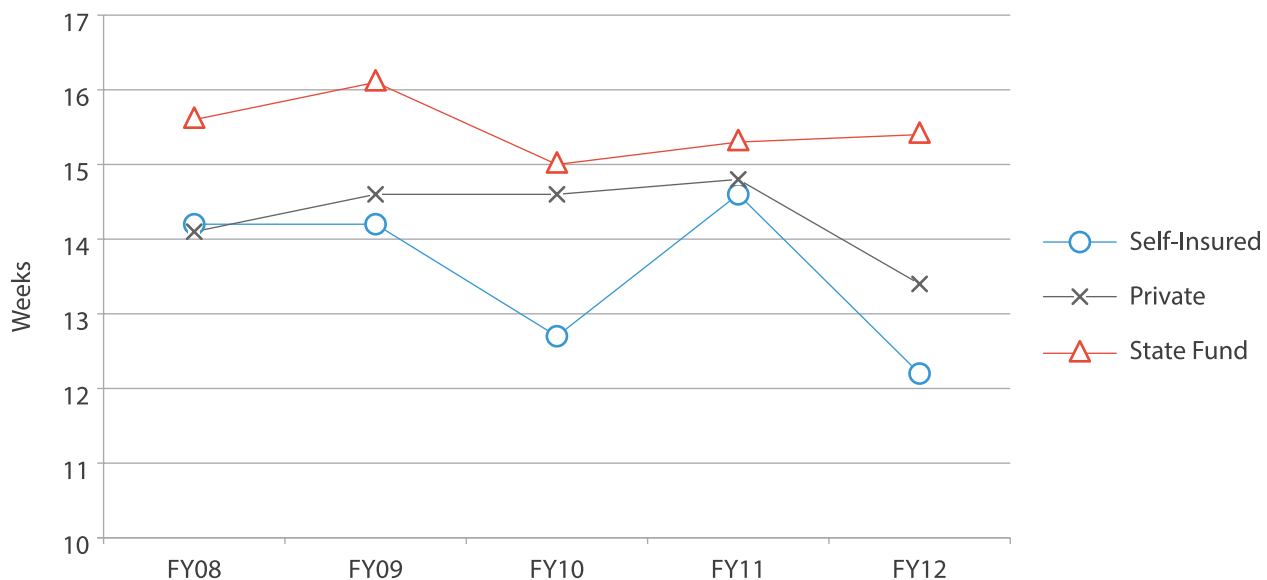


EXHIBIT 3.23

### TEMPORARY DISABILITY PAID DURATION (WEEKS) – 1 YEAR MATURITY

By Plan Type and Fiscal Year of Injury

Plan Type	FY08	FY09	FY10	FY11	FY12
Self-Insured	14.2	14.2	12.7	14.6	12.2
Private	14.1	14.6	14.6	14.8	13.4
State Fund	15.6	16.1	15.0	15.3	15.4
All Plans	14.9	15.3	14.5	15.0	14.1

EXHIBIT 3.24

## TEMPORARY DISABILITY PAID DURATION – 3 YEAR MATURITY

By Plan Type and Fiscal Year of Injury

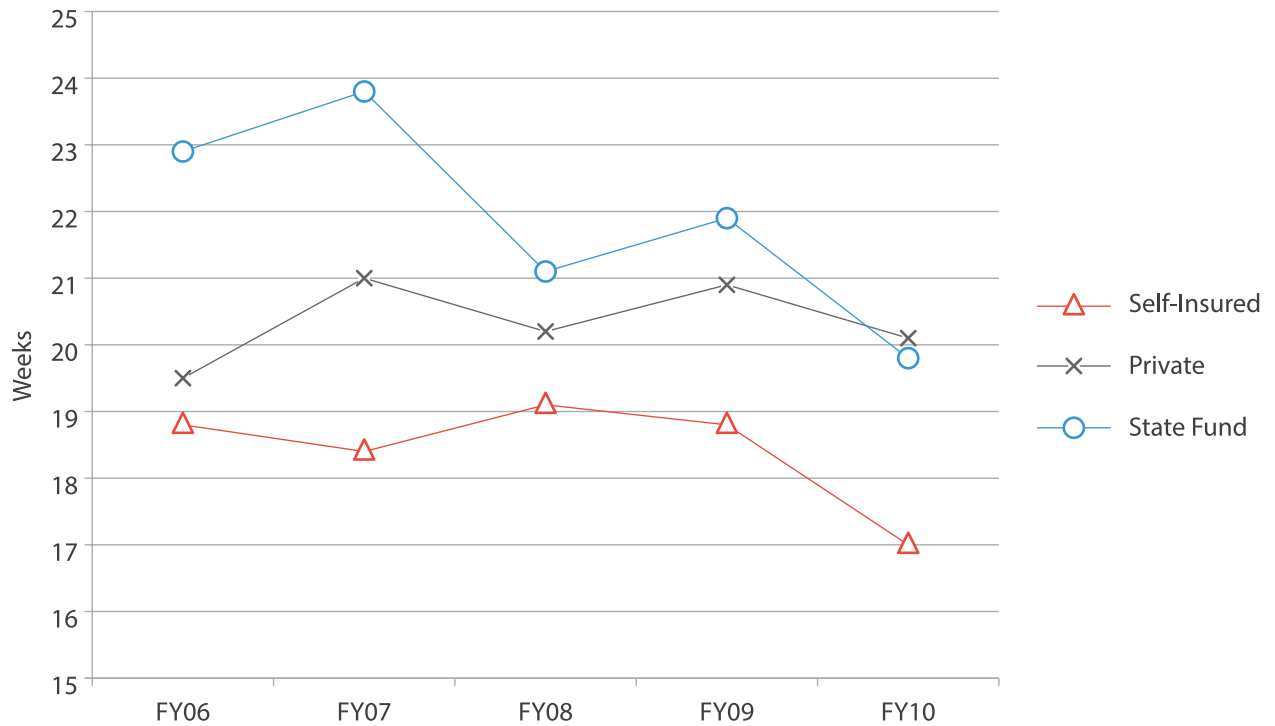


EXHIBIT 3.25

## TEMPORARY DISABILITY PAID DURATION (WEEKS) – 3 YEAR MATURITY

By Plan Type and Fiscal Year of Injury

Plan Type	FY06	FY07	FY08	FY09	FY10
Self-Insured	18.8	18.4	19.1	18.8	17.0
Private	19.5	21.0	20.2	20.9	20.1
State Fund	22.9	23.8	21.1	21.9	19.8
All Plans	21.2	22.0	20.5	21.0	19.5

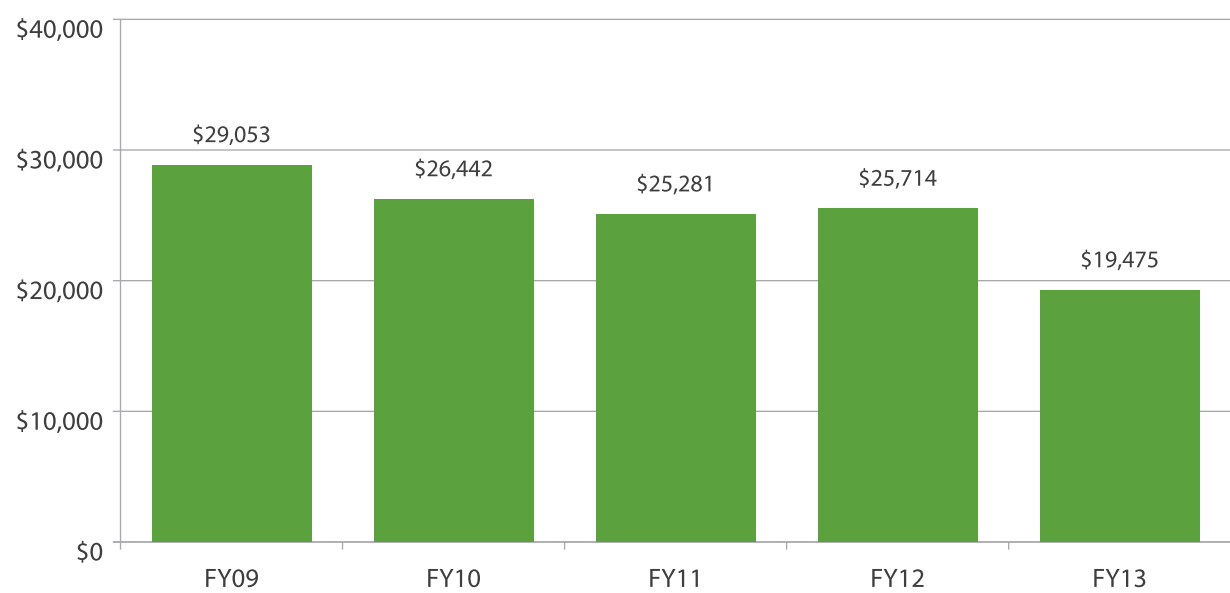
# SETTLEMENT DOLLARS

Settlements are lump sum payments of the claimant's workers' compensation indemnity and/or medical benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. If the claimant has more than one claim, a

settlement may settle more than one of those claims. Settlements are subject to approval by ERD.

The average settlement amounts, by fiscal year of injury, are displayed below in Exhibits 3.26 and 3.27, including both injury and occupational disease settlements.

**EXHIBIT 3.26**  
**AVERAGE SETTLEMENT AMOUNT**  
By Fiscal Year of Injury



**EXHIBIT 3.27**  
**SETTLEMENT AMOUNTS FOR CLAIMS SETTLED**  
By Plan Type and Fiscal Year of Injury

	FY09		FY10		FY11		FY12		FY13	
Plan Type	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Self-Insured	\$5,143,090	154	\$4,045,814	133	\$3,086,150	99	\$1,972,187	79	\$978,981	41
Private	\$13,050,234	470	\$10,636,767	441	\$10,387,995	396	\$7,953,863	319	\$3,458,122	202
State Fund	\$15,055,451	519	\$13,350,626	488	\$11,783,893	502	\$10,733,378	405	\$5,726,407	278
UEF	\$190,784	8	\$260,007	8	\$23,222	3	\$40,493	2	\$2,500	1
Total	\$33,439,559	1,151	\$28,293,214	1,070	\$25,281,260	1,000	\$20,699,921	805	\$10,166,010	522

## SETTLEMENT OF MEDICAL BENEFITS FOR BEST INTEREST

In March of 2011, the Montana Legislature passed a law that allowed for undisputed future medical benefits to be settled on an accepted claim. These Petitions for Best Interest require a rationale for the settlement, a statement of why it's in the best interest of the parties to settle the medical benefits, and a signed acknowledgment from the injured worker.

Petitions for Best Interest can be approved for all open claims, for which medical has not been settled, regardless of the date of injury. The following exhibits represent all petitions for best interest settlements

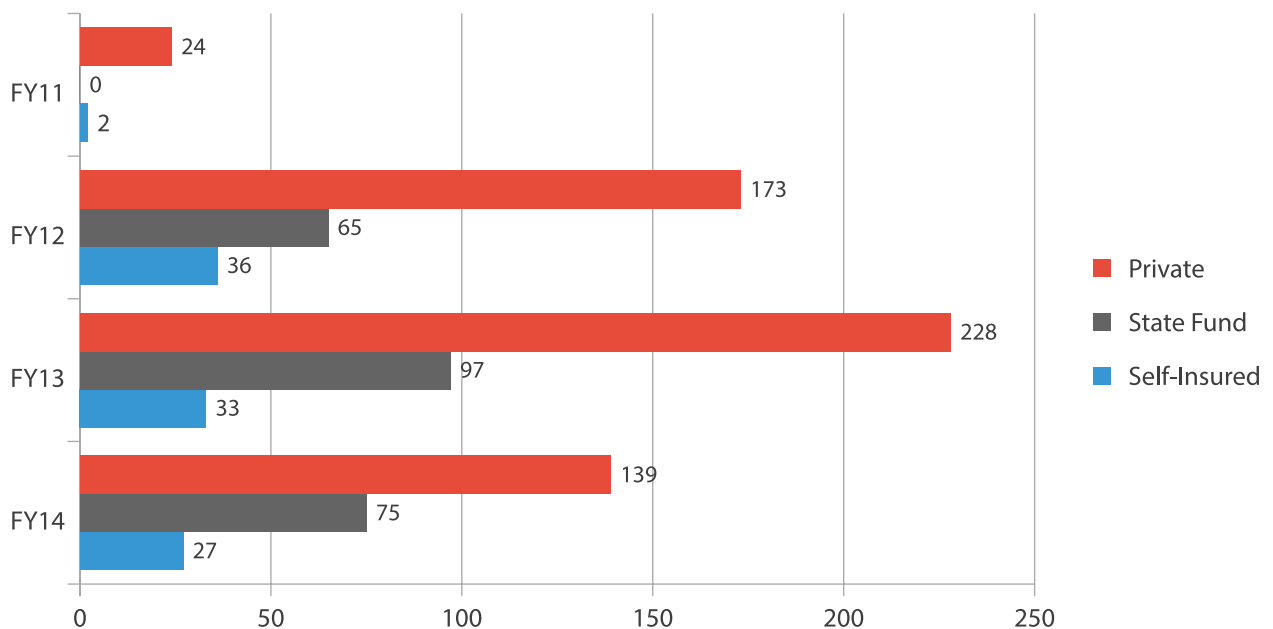
since the law went into effect in April 2011 through February 2014, for all dates of injury.

Exhibit 3.28 shows the number of settlements approved for each payer type. Exhibit 3.29 illustrates the total medical dollars settled by payer, for those petitions (86%) that we could determine the settlement amount allocated for medical. Exhibit 3.30 shows the dollar amounts in ranges of \$10,000 settled by all payers. Most Petitions (77%) settled for \$30,000 or less.

EXHIBIT 3.28

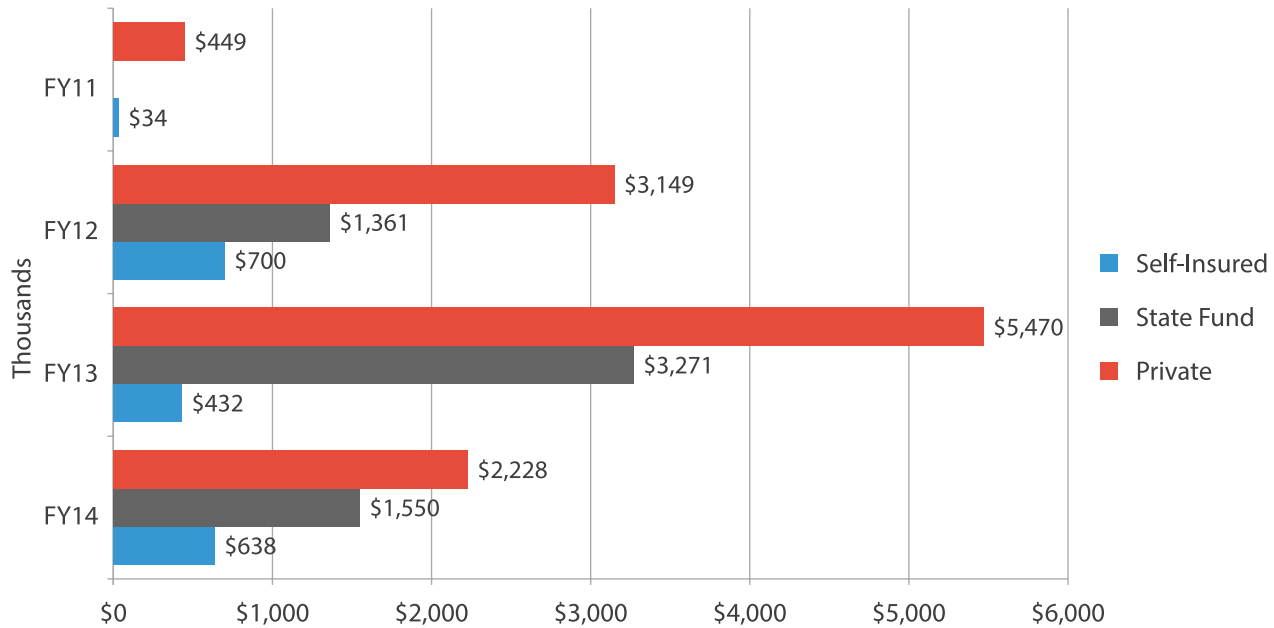
### NUMBER OF SETTLEMENTS FOR BEST INTEREST

By Plan Type and Fiscal Year of Decision (April 2011 to February 2014)

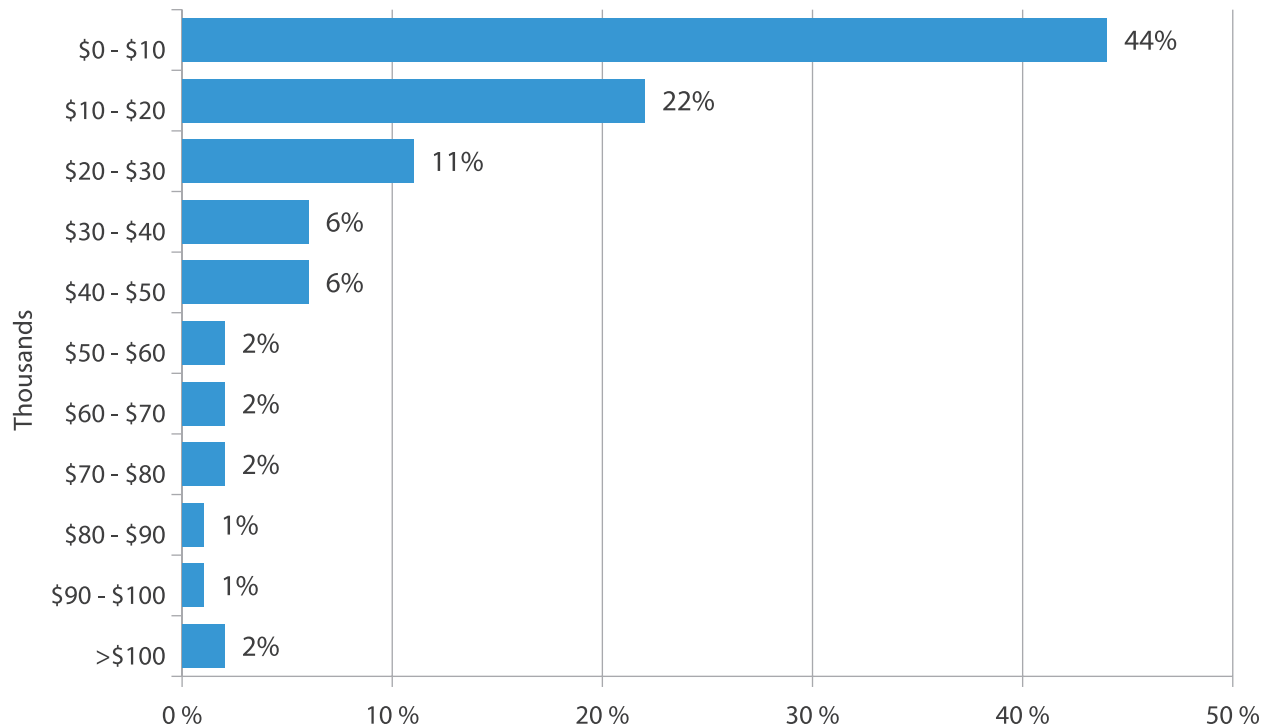


**EXHIBIT 3.29**
**TOTAL SETTLEMENT AMOUNTS FOR CLAIMS SETTLED FOR BEST INTEREST**

By Plan Type and Fiscal Year of Decision (April 2011 to February 2014)


**EXHIBIT 3.30**
**SETTLEMENT DISTRIBUTION FOR CLAIMS SETTLED FOR BEST INTEREST**

April 2011 to February 2014





# INJURED WORKER ATTORNEY FEES

ERD requires claimants’ attorneys to submit a Legal Fee Report at regular intervals throughout the life of a claim (§39-71-613, MCA). The Legal Fee Report provides the amount of attorney fees received by attorneys. Maximum legal fees are set by rule and regulated by ERD (ARM 24.29.3802).

Average attorney legal fees are represented in Exhibits 3.31 and 3.32, by plan type and fiscal year of injury.

EXHIBIT 3.31

## AVERAGE ATTORNEY LEGAL FEES

By Fiscal Year of Injury

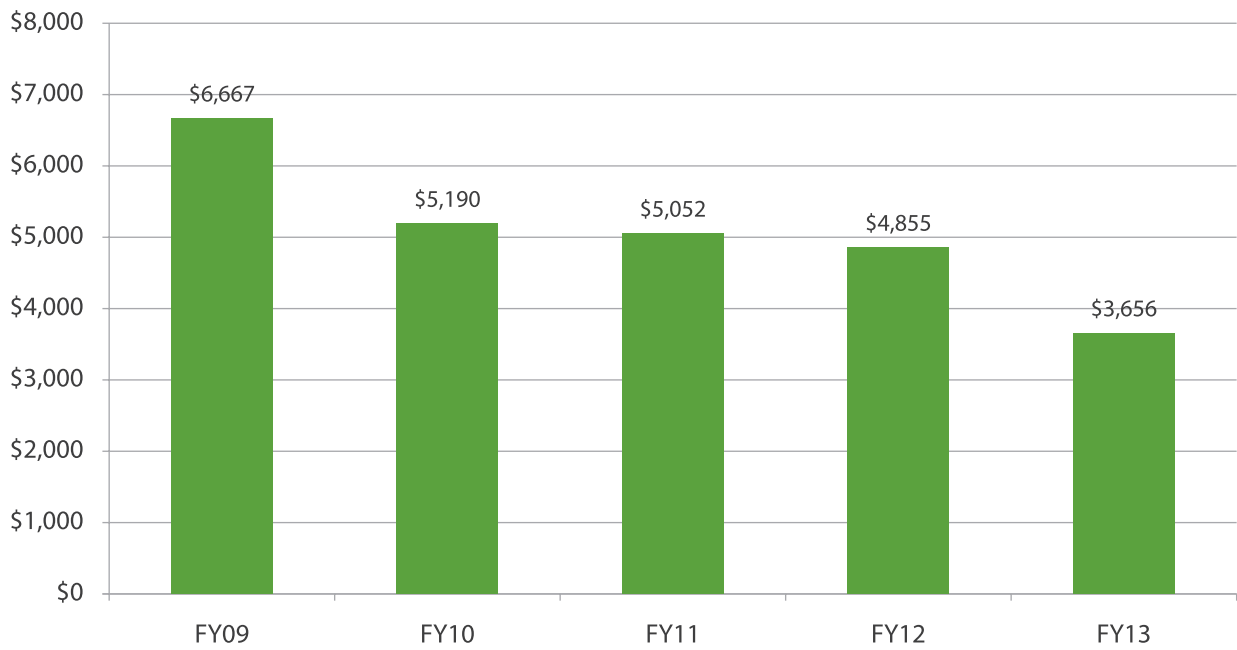


EXHIBIT 3.32

## TOTAL ATTORNEY LEGAL FEES

By Plan Type and Fiscal Year of Injury

Plan Type	FY09		FY10		FY11		FY12		FY13	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Self-Insured	\$537,250	85	\$320,905	76	\$395,446	69	\$176,079	56	\$118,096	37
Private	\$1,381,311	224	\$1,222,044	236	\$1,155,483	239	\$935,519	190	\$382,282	109
State Fund	\$1,910,685	265	\$1,241,064	222	\$1,164,319	227	\$1,038,649	196	\$456,401	114
UEF	\$4,375	1	\$8,412	4	\$7,643	4	\$568	1	\$1,105	2
Total	\$3,833,621	575	\$2,792,426	538	\$2,722,891	539	\$2,150,814	443	\$957,885	262

## INJURED WORKER ATTORNEY FEES

ERD also collects legal fee information on approved workers' compensation settlements. The table below represents fees claimed in the fiscal year of the approved settlement, regardless of the fiscal year in which the injury or occupational disease occurred.

Exhibit 3.33 shows that approximately 60% of all settlements in FY13 involved attorneys, and the average fee in proportion to the settlement amount was 14%.

### EXHIBIT 3.33

#### ATTORNEY FEES FROM CLAIMANT SETTLEMENTS

By Fiscal Year of Settlement

	FY09	FY10	FY11	FY12	FY13
<b>Number of Settlement Petitions Processed</b>	1,467	1,502	1,553	1,323	1,131
<b>Claims Settled with Attorney Representation</b>	786	860	891	800	678
<b>Percent Claimants Represented by Attorney</b>	54%	57%	57%	60%	60%
<b>Total Settlement Amount with Attorney Involvement</b>	\$27,164,323	\$35,516,545	\$34,127,418	\$35,387,446	\$28,709,531
<b>Total Attorney Fees</b>	\$4,969,772	\$5,729,453	\$4,379,208	\$4,530,837	\$3,883,422
<b>Average Fee/Settlement Percentage</b>	18%	16%	13%	13%	14%

# INSURER LEGAL EXPENSES

ERD requires insurance companies to report legal fees and costs associated with each indemnity claim (ARM 24.29.4335 & 24.29.4336). These costs are reported to ERD on the subsequent report of injury at regular intervals throughout the life of a claim.

Insurer legal expenses are represented in exhibits 3.34 and 3.35, by plan type and fiscal year of injury.

EXHIBIT 3.34

AVERAGE INSURER LEGAL EXPENSES PER CLAIM  
By Fiscal Year of Injury

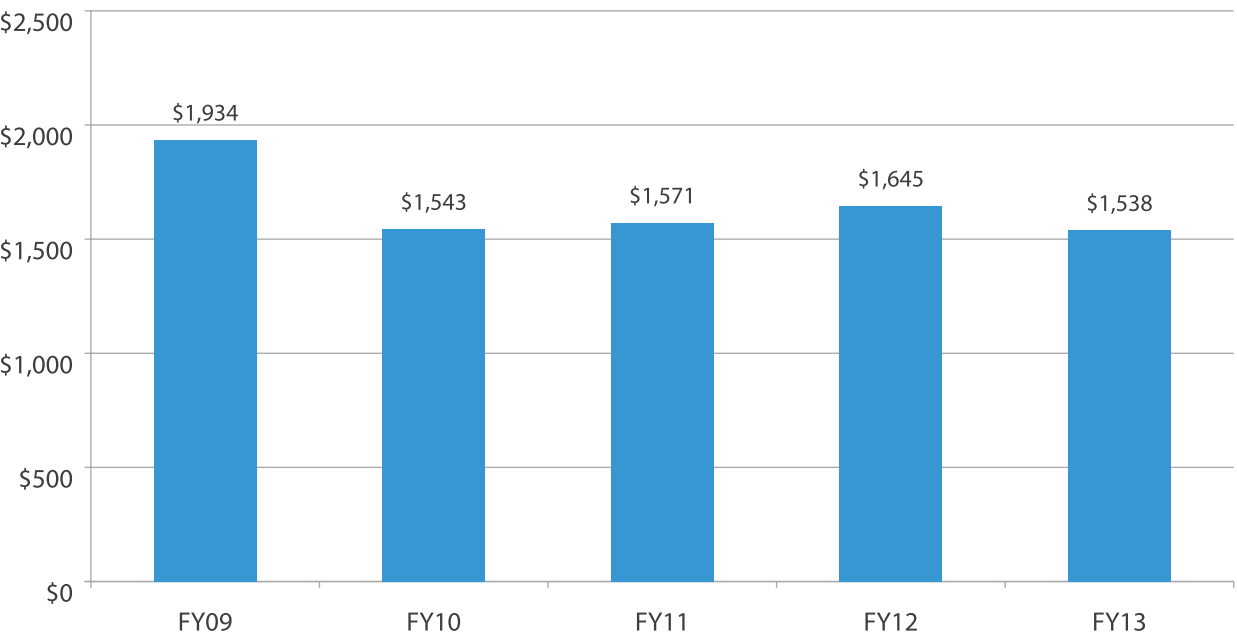


EXHIBIT 3.35

TOTAL INSURER LEGAL EXPENSES  
By Plan Type and Fiscal Year of Injury

	FY09		FY10		FY11		FY12		FY13	
Plan Type	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Self-Insured	\$51,475	23	\$31,796	22	\$12,389	11	\$21,581	10	\$11,056	9
Private	\$96,545	92	\$91,833	115	\$62,825	87	\$48,324	64	\$27,762	40
State Fund	\$529,986	235	\$376,394	187	\$385,142	195	\$273,775	134	\$170,315	87
Total	\$678,006	350	\$500,024	324	\$460,356	293	\$343,679	208	\$209,134	136





# SECTION 4

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## DISPUTE RESOLUTION

- Mediation
- Contested Case Hearings
- Workers' Compensation Court
- Significant Workers' Compensation Cases
- Supreme Court Decision on Workers' Compensation



## MEDIATION

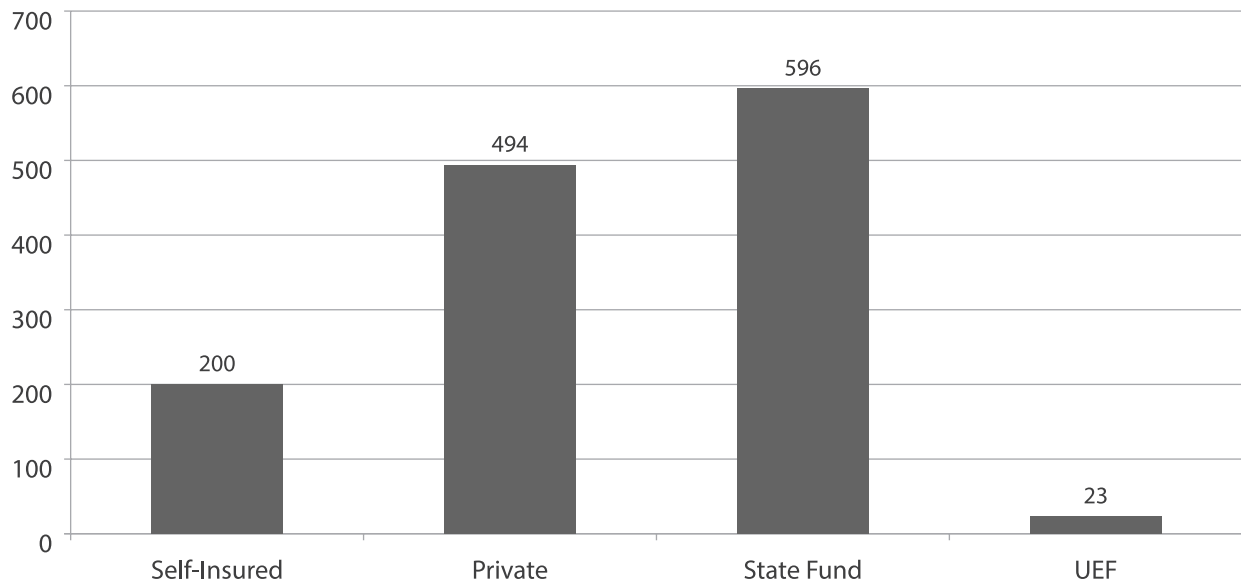
The Workers' Compensation Mediation Unit of ERD administers a mandatory process for resolving disputes dealing with benefits for both occupational injury and disease claims. The mediation process is confidential, non-binding and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute.

Conferences are usually by telephone, but can be held in person in Helena upon request. Often more than one conference is held in order to resolve the disputes on a claim. In FY13, the Mediation Unit received and processed 1,212 petitions, which involved 1,313 claims. A petition is a request for mediation and may include multiple claims and/or multiple insurers.

**EXHIBIT 4.1**

### CLAIMS IN MEDIATION - FY13

By Plan Type



**EXHIBIT 4.2**

### CLAIMS IN MEDIATION

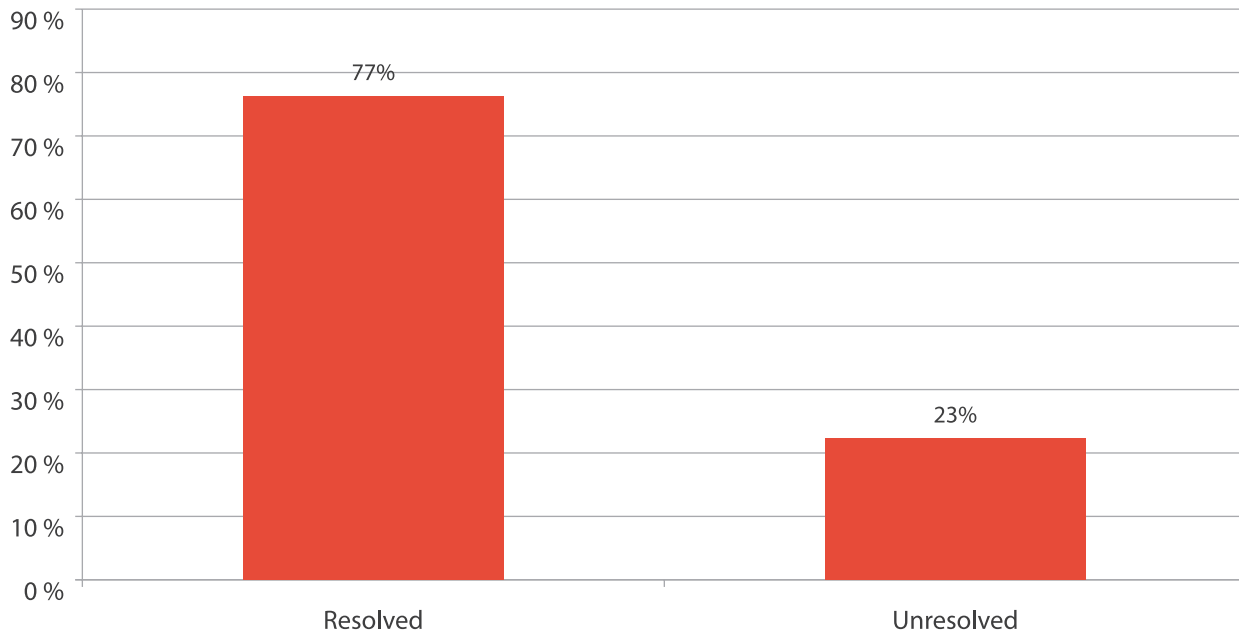
By Plan Type and Fiscal Year of Receipt

Plan Type	FY09		FY10		FY11		FY12		FY13	
	Count	%	Count	%	Count	%	Count	%	Count	%
Self-Insured	262	19%	253	17%	245	16%	226	15%	200	15%
Private	542	39%	623	41%	599	39%	601	39%	494	38%
State Fund	554	40%	597	39%	665	43%	679	44%	596	45%
UEF	27	2%	39	3%	34	2%	24	2%	23	2%
<b>Total<sup>1</sup></b>	<b>1,385</b>	<b>100%</b>	<b>1,512</b>	<b>100%</b>	<b>1,543</b>	<b>100%</b>	<b>1,530</b>	<b>100%</b>	<b>1,313</b>	<b>100%</b>

<sup>1</sup>Total counts represent the number of claims, not the number of petitions.

EXHIBIT 4.3

## PERCENT OF MEDIATION PETITIONS RESOLVED - FY13



Over the past five years, the mediation process has had an average resolution rate of 80%. From the date of the petition receipt to issuing a written

recommendation, the average completion time for mediation was 42 days in FY13.

EXHIBIT 4.4

## MEDIATION PETITIONS

By Fiscal Year of Receipt

	FY09		FY10		FY11		FY12		FY13	
Petitions	Count	%	Count	%	Count	%	Count	%	Count	%
Pending <sup>2</sup>	1	0%	1	0%	3	0%	10	1%	128	11%
Closed	1,248	100%	1,378	100%	1,371	100%	1,365	99%	1,084	89%
Total Received	1,249	100%	1,379	100%	1,374	100%	1,375	100%	1,212	100%
Resolved	1,016	81%	1,132	82%	1,092	80%	1,102	81%	839	77%
Unresolved	232	19%	246	18%	279	20%	263	19%	245	23%
Total Closed	1,248	100%	1,378	100%	1,371	100%	1,365	100%	1,084	100%

<sup>2</sup>Eventual outcome of pending petitions will affect percent resolved.



# CONTESTED CASE HEARINGS

The DLI Hearings Bureau holds contested case hearings, including appeals from orders and determinations issued by ERD and assessments of penalties for uninsured employers. In FY13, the

Hearings Bureau received two new requests for contested case hearings. One was an uninsured employer case and the other involved extraterritorial coverage.

EXHIBIT 4.5

PETITIONS RECEIVED BY THE HEARINGS BUREAU  
By Plan Type and Fiscal Year

Plan Type	FY09		FY10		FY11		FY12		FY13	
	Count	%	Count	%	Count	%	Count	%	Count	%
Self-Insured	0	0%	0	0%	0	0%	0	0%	0	0%
Private	0	0%	0	0%	0	0%	0	0%	0	0%
State Fund	0	0%	1	34%	1	33%	0	0%	0	0%
UEF	3	75%	1	33%	2	67%	0	0%	1	50%
Other	1	25%	1	33%	0	0%	0	0%	1	50%
Total	4	100%	3	100%	3	100%	0	100%	2	100%

## WORKERS' COMPENSATION COURT

The Workers' Compensation Court resolves disputes between workers injured as a result of occupational injuries or diseases, and insurers or employers. The court has original jurisdiction over benefit issues arising under the Workers' Compensation Act. For an injury occurring after July 1, 1987, disputes must first be mediated through the ERD Mediation Unit. The court's exclusive jurisdiction also extends to disputes involving independent contractor exemptions under both the Workers'

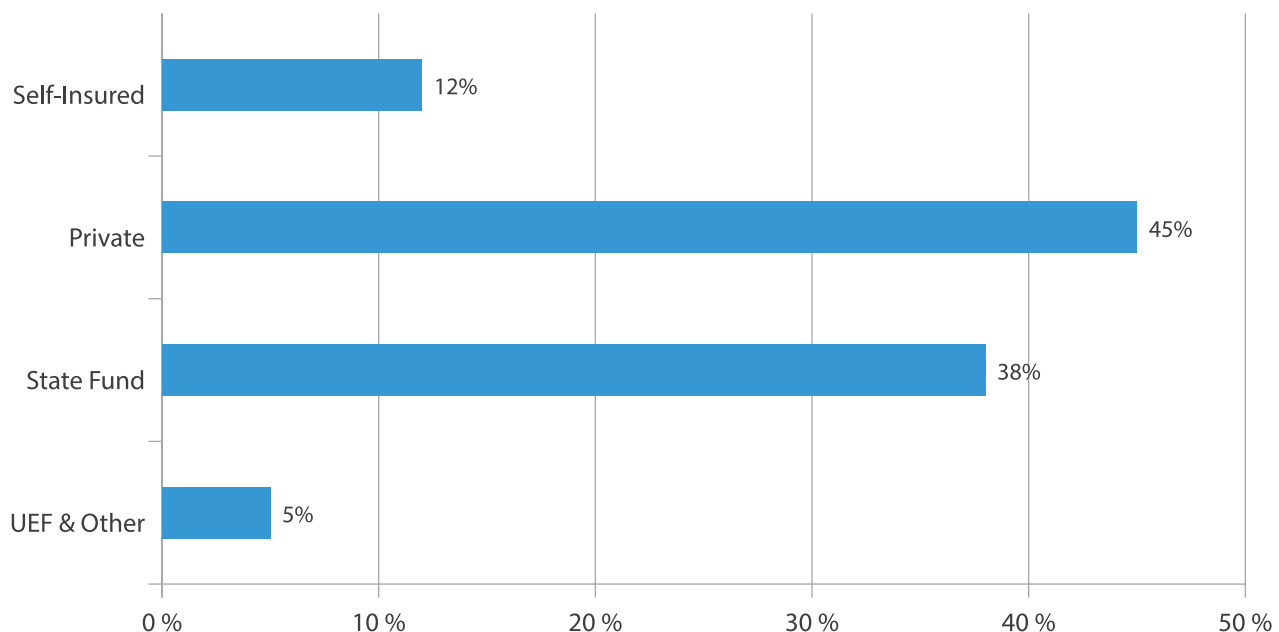
Compensation and Unemployment Insurance Acts, civil penalties for theft of workers' compensation benefits, and the two-year return to work preference specified in section 39-71-317(2), MCA.

Further information on the Workers' Compensation Court can be found on their website: <http://www.wcc.dli.mt.gov/wcourthome.asp>.

### EXHIBIT 4.6

#### PERCENT OF PETITIONS RECEIVED BY THE WCC – FY13

By Case Type<sup>3</sup>



<sup>3</sup>The Workers' Compensation Act provides for three separate "plans", i.e. Self-Insured, Private Insured, and Montana State Fund. The court breaks down its case types further for statistical purposes, i.e. Self-Insured, Private Insured, Montana State Fund, Subsequent Injury Fund, Uninsured Employers' Fund, Independent Contractor Central Unit (ICCU), and Department of Labor and Industry (DLI).

## EXHIBIT 4.7

## PETITIONS RECEIVED BY THE WCC

By Case Type<sup>4</sup> and Fiscal Year of Receipt

Case Type	FY09		FY10		FY11		FY12		FY13	
	Count	%	Count	%	Count	%	Count	%	Count	%
Self-Insured	25	12%	22	10%	12	5%	8	4%	26	12%
Private	90	43%	112	49%	103	44%	97	47%	99	45%
State Fund	83	40%	78	34%	103	44%	92	44%	83	38%
UEF & Other	10	5%	17	7%	15	6%	10	5%	10	5%
Total	208	100%	229	100%	233	100%	207	100%	218	100%

<sup>4</sup>Petitions may involve more than one case type.

## EXHIBIT 4.8

## DECISIONS BY THE WCC

By Fiscal Year of Receipt

Decisions	FY09	FY10	FY11	FY12	FY13
Decisions	143	181	167	170	199
Substantive Orders	43	26	28	13	40
Orders on Cost	3	6	3	4	7
Bench Rulings without Written Decisions	2	0	1	0	0
Attorney Fee Orders	0	3	1	0	5
Phone Conference Resulting in Disposition	0	0	0	0	0
Orders on Appeal	0	1	0	0	3
Subtotal	191	217	200	187	254
Petitions Dismissed by Agreement	51	46	41	42	40
Total	242	263	241	229	294

## EXHIBIT 4.9

## FULL AND FINAL COMPROMISE SETTLEMENTS BY THE WCC

By Case Type and Fiscal Year of Receipt

Case Type	FY09	FY10	FY11	FY12	FY13
Self-Insured	2	5	2	4	1
Private	5	9	4	4	3
State Fund	12	8	2	5	6
UEF	0	0	0	0	0
Total	19	22	8	13	10

## SIGNIFICANT WORKERS' COMPENSATION CASES

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Case summaries are taken from the Workers' Compensation Court website: <http://wcc.dli.mt.gov/>.

In the Workers' Compensation Court of the State of Montana:

### **KAREN MONROE, Individually and as Personal Representative of the Estate of Dwane Monroe vs. MACO WORKERS COMP TRUST**

#### **2014 MTWCC 7**

**Summary:** Petitioner alleges her late husband, a W.R. Grace & Co. employee for over twenty years, was exposed to asbestos while later working with the Lincoln County Road Department in the Libby area for over ten years. Petitioner's husband was diagnosed with asbestos-related lung disease in 2001 and died in 2010. The decedent's claim for compensation with W.R. Grace was settled on a disputed liability basis. Petitioner alleges Lincoln County is liable for her husband's death under the last injurious exposure rule. Respondent denies liability on the grounds that Petitioner's claim is untimely pursuant to § 39-71-601, MCA, and that Petitioner's husband developed asbestos-related disease as a result of his work with W.R. Grace and not Lincoln County.

**Held:** Respondent is liable for Petitioner's claim under the "potentially causal" standard enunciated in *In re Claim of Mitchell*. Because no one at the Lincoln County Road Department had filed for asbestos-related disease at the time Petitioner submitted her claim, the Court concluded that Petitioner neither knew nor should have known that her husband's work for the county was directly related to his asbestos-related disease until informed by her attorney. Petitioner's claim is not time-barred, and she is entitled to widow's benefits and burial expenses. Petitioner is not entitled to PPD benefits based on a 100% impairment.

### **TARA McCOY vs. TRAVELERS CASUALTY & SURETY COMPANY**

#### **2014 MTWCC 3**

**Summary:** Respondent moved for summary judgment in this matter, arguing that jurisdiction lies in North Dakota since Petitioner was injured while

working there. Petitioner objected and contends that this Court has jurisdiction over her claim under § 39-71-402(1), MCA.

**Held:** Petitioner was not employed in Montana at the time of her industrial injury and therefore this Court does not have jurisdiction over her claim under § 39-71-402(1), MCA. Respondent's motion for summary judgment is therefore granted.

### **CHARLES GRAY vs. MONTANA STATE FUND**

#### **2014 MTWCC 2**

**Summary:** Petitioner began receiving social security retirement benefits at age 62, but continued to work. He subsequently suffered an industrial injury for which he has reached MMI. Petitioner contends that he only received "partial" social security benefits and that he is entitled to PTD benefits until he reaches the age of "full retirement." Respondent contends that Petitioner is considered "retired" under § 39-71-710, MCA, and that he is therefore ineligible for PTD benefits.

**Held:** Section § 39-71-710, MCA, provides that injured workers are considered retired if they receive social security retirement benefits or if they are eligible to receive full social security retirement benefits. This provision of the statute is framed in the disjunctive. Under the terms of this statute, if an injured worker is either **eligible** to receive **full** social security retirement benefits or **actually** receives social security retirement benefits in any amount, the worker is considered retired. Since Petitioner received social security retirement benefits, even though they are not "full" benefits, he fulfills the requirements of the statute and is considered "retired." He is therefore not eligible for PTD benefits.

### **JULIE ENGLE vs. HARTFORD UNDERWRITERS INS. CO.**

#### **2013 MTWCC 27**

#### **APPEALED TO MONTANA SUPREME COURT – 01/27/14**

**Summary:** After Respondent denied further benefits for Petitioner's accepted occupational disease claim, Petitioner petitioned the Court, arguing that her

ongoing problems with her left elbow are caused by her occupational disease and that Respondent cannot now deny liability. Petitioner further argued that Respondent unreasonably denied her further benefits.

**Held:** Petitioner did not suffer a new injury which would sever Respondent's liability under § 39-71-407(5), MCA. It was unreasonable for Respondent to refuse to pay further benefits to Petitioner on this theory without any evidence to support its position and Petitioner is therefore entitled to a penalty and her attorney fees. Respondent has not proven that Petitioner's current elbow condition is unrelated to her occupational disease claim and therefore it remains liable for her condition.

**STEVE PETERSON vs. LIBERTY NW INS. CORP.**

**2013 MTWCC 26**

**Summary:** Petitioner alleges he suffers from asbestos-related disease as a result of his 26-year history working at the Libby Lumber mill. Respondent counters that Petitioner filed his claim long after the statute of limitations had run pursuant to § 39-72-403, MCA, and therefore, Petitioner's claim is time-barred.

**Held:** Given Petitioner's knowledge of asbestos contamination at the Libby mill and the number of occupational disease claims filed over the years by employees at the mill alleging asbestos-related disease due to their employment, Petitioner knew or should have known that his occupation contributed to his asbestos-related disease for years prior to filing a claim for benefits. Petitioner's claim for occupational disease benefits is time-barred under the statute of limitations, § 39-72-403, MCA.

**MARLENE TORGERSON, as Personal Representative of the Estate of Richard Torgerson vs. TRANSPORTATION INS. CO.**

**2013 MTWCC 24**

**Summary:** Respondent moved for summary judgment, arguing that it is not liable for payment of an impairment award to a claimant who died from unrelated causes after reaching MMI but prior to a physician issuing an impairment rating for his

occupational disease. Petitioner filed a cross-motion for summary judgment, arguing that the claimant's right to this benefit accrued at the time he reached MMI and that it is therefore payable to his estate.

**Held:** Under the applicable case law, a claimant's right to an impairment award accrues at the time the claimant reaches MMI, even though a physician must subsequently issue an impairment rating in order to determine the precise value of the entitlement. In the present case, the claimant's right to an impairment award accrued when he reached MMI, even though the claimant died prior to the issuance of an impairment rating. Therefore, his estate is entitled to receive payment of the impairment award from Respondent.

**TINA MALCOMSON vs. LIBERTY NORTHWEST**

**2013 MTWCC 21**

**APPEALED TO MONTANA SUPREME COURT – 09/12/13**

**Summary:** Petitioner withdrew her consent allowing Respondent to have ex parte communications with her medical providers. She then signed a release allowing Respondent to obtain relevant medical information, but requiring Respondent to give her the opportunity to participate in any communications. Respondent terminated Petitioner's benefits, arguing that it is entitled to pursue ex parte communications with an injured worker's medical providers pursuant to § 39-71-604(3) and § 50-16-527(5), MCA. Petitioner petitioned this Court, arguing that these statutes unconstitutionally violate her right of privacy under Article II, Section 10, of the Montana Constitution, and her right to due process under Article II, Section 17, of the Montana Constitution and under the Fifth and Fourteenth Amendments to the United States Constitution.

**Held:** As applied to the facts of Petitioner's claim, § 39-71-604(3), MCA, is unconstitutional under Article II, Section 10, of the Montana Constitution. Petitioner does not seek to limit Respondent's ability to obtain relevant healthcare information regarding her claim; she seeks only to be advised that the communications with her treating physicians are taking place and to be included in the communications in order to protect her constitutional right of privacy. Although

its provisions are identical to the language of § 39-71-604(3), MCA, this Court lacks the jurisdiction to rule on the constitutionality of § 50-16-527(5), MCA, since it is not part of the Workers' Compensation Act.

**MONTANA INSURANCE GUARANTY ASSOCIATION  
vs. MONTANA SUBSEQUENT INJURY FUND**

**2013 MTWCC 19**

**Summary:** Petitioner appealed from a Department decision denying it summary judgment on the issue of whether it was entitled to reimbursement from Respondent in a case where an employee who was certified as vocationally handicapped suffered a subsequent injury. The Department held that the employer had failed to fulfill its affirmative duty to comply with § 39-71-906, MCA.

**Held:** Although Petitioner urges this Court to conclude that Respondent had an affirmative duty to contact the employer and request that the employer comply with § 39-71-906, MCA, the language of the statute does not support such a reading. The decision of the Department's hearing officer is affirmed.

# SUPREME COURT DECISION ON WORKERS' COMPENSATION

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## HARRIS vs. STATE and DOC

DA 12-191, 1/29/2013

**Summary:** Guard David Harris claimed spinal injuries due to tasing during Special Response Team training. He sued the State and DOC in July 2009 for intentional infliction of injury. Harris maintains that employers actions in exposing him to the taser were "intentional and deliberate" per § 39-71-413(3), MCA.

**Held:** The lower court correctly granted summary judgment to the Defendants, finding Harris' argument of a chance of injury is not the same as an employer's deliberate act to injure an employee. Harris did not identify any evidence that Defendants had actual knowledge that exposure to the taser was certain to injure him, as required by § 39-71-413(3), MCA.







# SECTION 5

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## DEPARTMENT ADMINISTERED PROGRAMS

- Workers' Compensation System Administration
- Organizational Charts
- Workers' Compensation Assessments as Expended
- Subsequent Injury Fund
- Uninsured Employers' Fund
- Construction Contractor Registration
- Independent Contractor Exemption Certificates
- Professional Employer Organizations
- Safety & Health
- Stay at Work/Return to Work
- Claims Examiner Certification
- Independent Medical Reviews



# WORKERS' COMPENSATION SYSTEM ADMINISTRATION

**E**mployment Relations Division (ERD) provides a wide variety of services and regulations related to workers' compensation and occupational safety and health.

## WORKERS' COMPENSATION REGULATIONS BUREAU

The **Carrier Compliance Unit** regulates private workers' compensation carriers (Plan 2) and issues and enforces licenses for Professional Employer Organizations (PEOs). The unit also processes and monitors extra-territorial reciprocal agreements with Washington, Oregon, Idaho, Wyoming, Utah, North and South Dakota. The unit processes Subsequent Injury Fund (SIF) applications and reimburses insurers for eligible SIF expenses.

The **Construction Contractor Registration Unit** ensures construction businesses with employees register and are in compliance with workers' compensation requirements. The unit publicizes and educates the public about the contractor registration program.

The **Independent Contractor Central Unit (ICCU)** educates the public and enforces compliance with the Workers' Compensation Act with regards to independent contractors through community outreach opportunities, onsite visits, and community wide 'sweeps'. ICCU issues independent contractor exemption certificates (ICEC), investigates working relationships and issues decisions on employment status for the Department of Revenue, Labor Standards, Unemployment Insurance, Human Rights and Uninsured Employers' Fund.

The **Self-Insurance Unit** approves and regulates qualified employers to be self-insured for the purposes of workers' compensation coverage for their employees.

The **Uninsured Employers' Fund Unit** enforces coverage requirements for all employers, pays benefits to injured workers whose employers did not have workers' compensation coverage, and manages the fund from which benefits are paid.

## WORKERS' COMPENSATION CLAIMS ASSISTANCE BUREAU

The **Claims Assistance Unit** works closely with insurers and adjusting companies handling workers' compensation claims to ensure compliance with workers' compensation statutes and administrative rules. The unit assists injured workers to better understand the workers' compensation system, answers their questions, serves as a liaison between the injured worker and their insurer or adjusting company, and regulates attorney fees. The unit administers the Claims Examiner Certification process, which includes an examination, a two year certification and renewal process, continuing education credits and instructor certification. The unit also administers the Stay at Work/Return to Work (SAW/RTW) program, which works with injured workers, employers, insurers and health care providers to expedite the process of returning an injured worker to work as soon as possible. In situations where the insurer cannot be identified or is not providing assistance, the program will provide the assistance.

The **Data Management Unit** is responsible for the collection, data quality and maintenance of workers' compensation claim and injury information. The unit uses the claim data and other information sources to complete a comprehensive annual report on workers' compensation for the Governor and the legislature, along with performing varied research on the workers' compensation system and related topics. Unit staff work directly with insurers and third party administrators to ensure compliance with Montana claim reporting requirements and adherence to national standards.

The **Mediation Unit** is responsible for a statutorily required process for resolving workers' compensation benefit disputes prior to the need for filing with the Workers' Compensation Court (WCC). Parties in dispute meet with impartial mediators in a confidential, nonbinding conference in an attempt to find resolution. Conference results range from complete resolution/agreement between the parties to negotiated settlement of the claim. If the process is not successful in resolving the issues, a written recommendation is provided and the parties are free to pursue the matter at the WCC.

The **Medical Regulations Unit** is the primary liaison for the Department with providers, claims examiners and insurers who have questions, need assistance or require direction on all issues relating to the medical regulation of workers' compensation claims, including medical fee schedules, utilization and treatment guidelines, and timely payments. The unit maintains and updates medical fee schedules for providers and payers and ensures access through a web based delivery system. The unit has a Medical Director, who is responsible for the maintenance, annual updates, distribution and training of the Montana Utilization and Treatment Guidelines. The Medical Director also performs independent medical reviews for denied services. The unit certifies injured workers for the Subsequent Injury Fund (SIF), applies the fee schedules to medical expenses, makes decisions on requested settlements as needed, manages the SIF fund balance, and authorizes payments for eligible SIF expenses.

#### **SAFETY & HEALTH BUREAU**

The **Safety & Health Unit** conducts inspections of public employers and performs on-site consultations for private employers throughout the state. Following an inspection or consultation, the unit provides occupational safety and health training to both public and private employers.

The **Mining Unit** is responsible for workplace safety and health compliance in underground and surface coal mines. They conduct mine safety inspections and assist mine operators in safety training plan development. The unit also inspects sand and gravel operations.

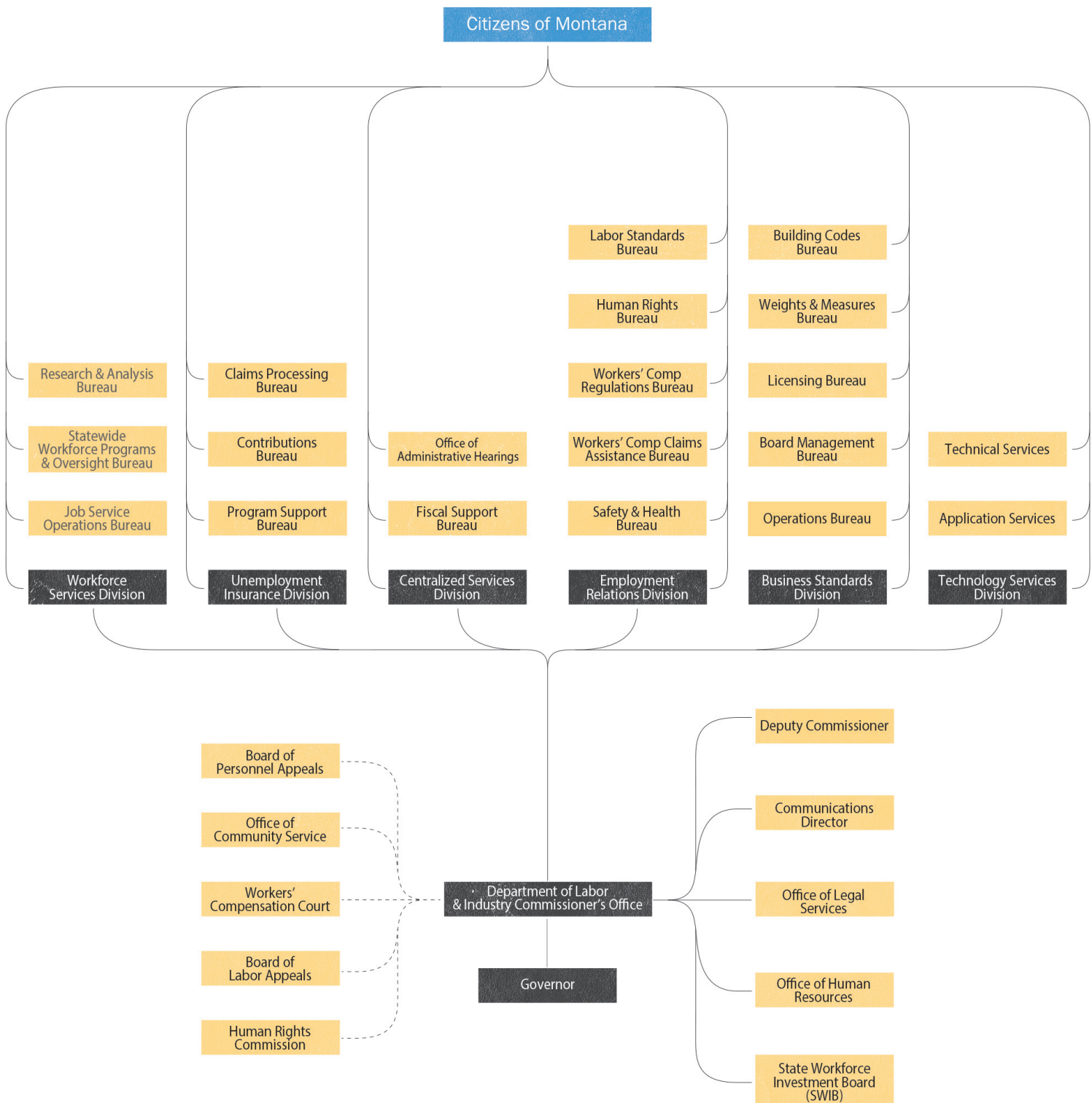
The **Outreach and Education Unit** conducts presentations on the Montana Safety Culture Act and employer safety to business related organizations across the state. Young worker focused Occupational Safety and Health Administration (OSHA) 10-hour courses are presented at high schools, colleges and youth organizations.

The **SafetyFestMT Unit** partners with WorkSafeMT, providing free occupational safety and health training to workers and employers through events held around the state.

# ORGANIZATIONAL CHARTS

EXHIBIT 5.1

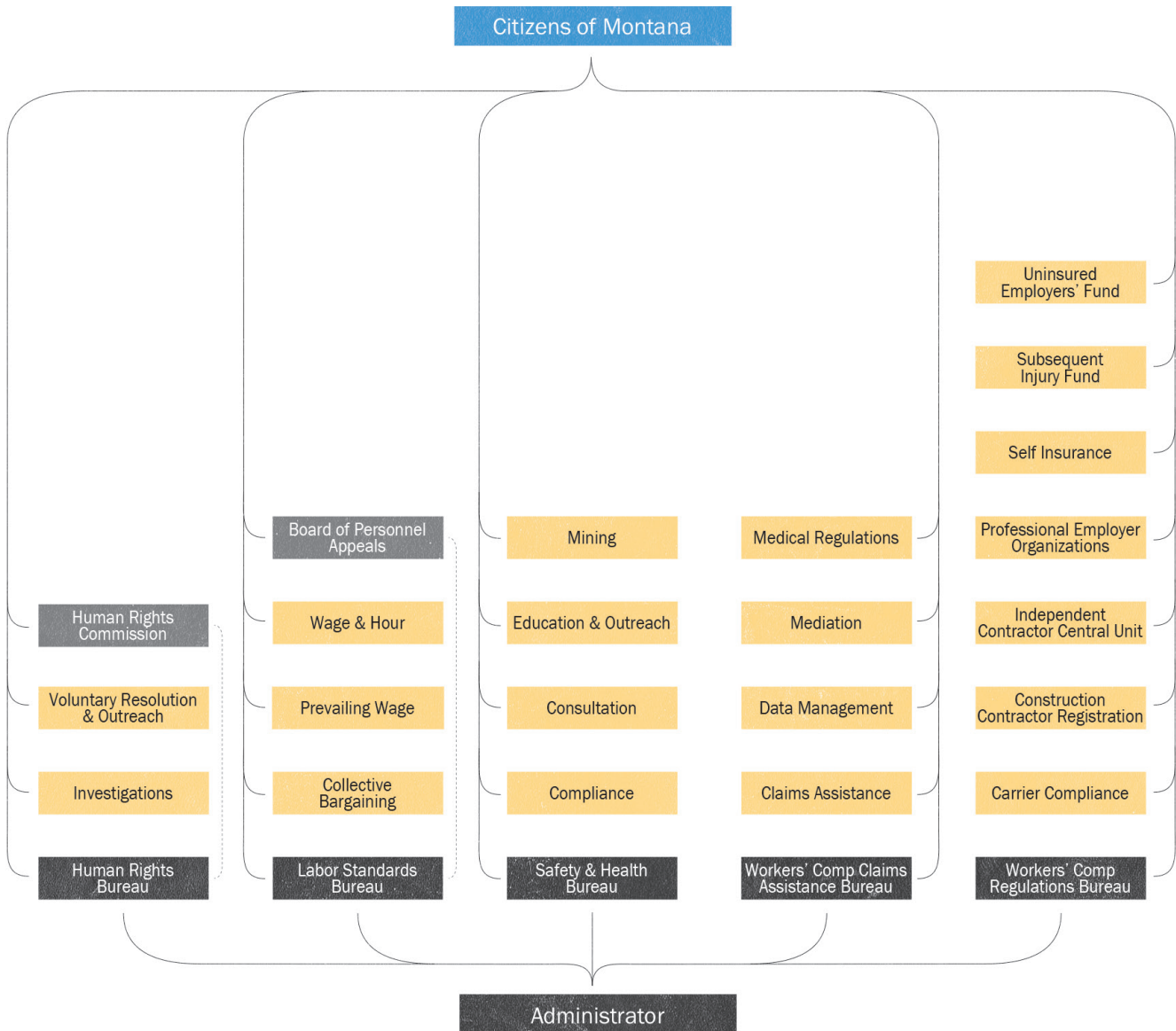
## MONTANA DEPARTMENT OF LABOR & INDUSTRY



For administratively attached professional licensing boards, please go to [www.bsd.dli.mt.gov](http://www.bsd.dli.mt.gov)

EXHIBIT 5.2

## EMPLOYMENT RELATIONS DIVISION



## WORKERS' COMPENSATION ASSESSMENTS AS EXPENDED

The administration of the Workers' Compensation Act and the various occupational safety laws is funded by an assessment to employers who self-insure and a surcharge paid by employers who are insured by private insurance companies and the Montana State Fund. Section 39-71-201, MCA, requires the administration assessment to be up to three percent of benefits paid during the preceding calendar year for injuries and occupational diseases covered under the Workers' Compensation Act, without regard to the application of any deductible, whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of \$200,000 per occurrence, which are exempt from the assessment).

DLI Functions funded by the administration assessments:

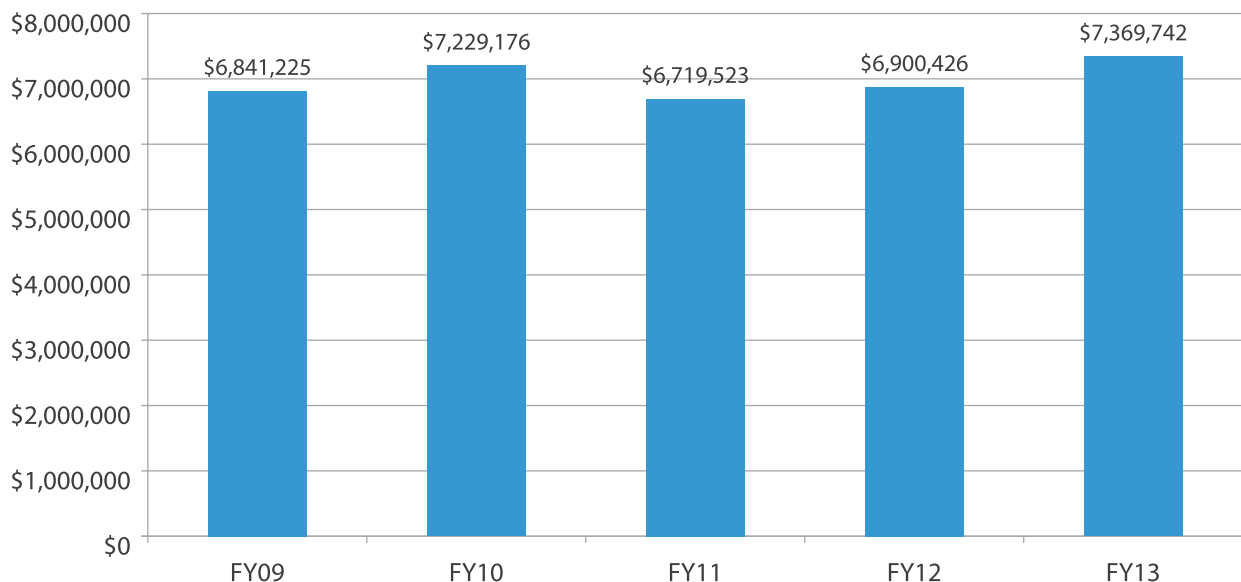
- Legal functions of the Workers' Compensation Court and the Hearings and Legal Bureaus;
- Administration of the Employment Relations Division, including the workers' compensation database;

- Claims management, data analysis, mediation, medical regulations, and administration functions of the Claims Assistance Bureau;
- Self-insurance, carrier compliance, Professional Employer Organizations (except for a small portion funded by application fees), Managed Care Organizations and other administration functions of the Workers' Compensation Regulations Bureau; and
- Occupational safety statistics, public facility inspections, OSHA on-site consultation grant match, mining inspection, MSHA mine training grant match and safety culture functions of the Safety & Health Bureau.

### EXHIBIT 5.3

#### WORKERS' COMPENSATION ASSESSMENTS AS EXPENDED

By Fiscal Year of Expenditure





## SUBSEQUENT INJURY FUND

The purpose of the Subsequent Injury Fund (SIF) is to assist individuals with a permanent impairment that may create an obstacle to employment, by offering a financial incentive to employers to hire SIF-certified individuals. Many states have similar funds, sometimes referred to as second injury funds. Montana's program is funded through an annual assessment on Montana self-insured employers and a surcharge on premium paid for private insured and Montana State Fund policyholders.

The assessment and surcharge rates, set by the Employment Relations Division annually, are based on the total amount of paid losses reimbursed by SIF in the preceding calendar year, plus the expenses of administration, less other income earned. Employers covered by Plans 1, 2 & 3 share in the reimbursement of SIF based on the percentage of the compensation and medical benefits paid in Montana by their insurers in the preceding calendar year.

The SIF program reduces the liability of the employer (if self-insured) or insurer by placing a limit of 104 weeks on the amount an employer (if self-insured), or the employer's insurer, will have to pay for medical and wage loss benefits in the event a worker who is SIF-certified becomes injured or re-injured on the job. When the 104 weeks is reached, SIF may assume

liability for the claim. The benefit to an insured employer is that since the insurer's liability is limited to 104 weeks on the claim, it can favorably impact the employer's modification factor, which in turn can keep premiums lower than would otherwise be the case without SIF. For a self-insured employer, it provides a direct recovery of expenses paid for a workers' compensation claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation Act.

### STATUS UPDATE

The total number of individuals certified under the program in FY13 was 4,917, an increase of 541 individuals since FY09. Although the number of applications and approvals for SIF certification has dropped sharply over the last several years, SIF reimbursements to insurers has dramatically increased, from \$348,029 in FY10 to \$1,217,191 in FY13. This increase in reimbursements has put significant pressure on the SIF to reimburse insurers in a timely manner since there is a lag in the time of when reimbursements are made and assessments are received to replenish the fund balance. The DLI has taken some initial actions and is reviewing other alternatives to bring improvements to this piece.

#### EXHIBIT 5.4

### SIF PAYMENTS AND DOLLARS ASSESSED

By Plan Type and Fiscal Year

	FY09		FY10		FY11		FY12		FY13	
Plan Type	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment
Self-Insured	\$244,428	\$107,095	\$73,584	\$121,149	\$110,219	\$172,394	\$110,196	\$59,781	\$375,991	\$82,383
Private	\$137,534	\$156,197	\$175,272	\$200,713	\$115,125	\$357,840	\$153,050	\$147,592	\$278,648	\$65,624
State Fund	\$435,160	\$269,964	\$99,173	\$313,037	\$190,009	\$464,691	\$456,430	\$283,554	\$562,552	\$131,510
Total	\$817,122	\$533,256	\$348,029	\$634,899	\$415,353	\$994,925	\$719,676	\$490,927	\$1,217,191	\$279,517

#### EXHIBIT 5.5

### SIF CERTIFIED WORKERS

By Fiscal Year

	FY09	FY10	FY11	FY12	FY13
Applications	242	323	198	138	102
Approvals	166	212	116	82	71
Certified Workers	4,376	4,551	4,730	4,812	4,917



# UNINSURED EMPLOYERS' FUND

The primary roles of the Uninsured Employers' Fund (UEF) are to provide medical and indemnity benefits to employees injured on the job while working for an uninsured employer and to ensure that employers comply with Montana's workers' compensation laws.

The UEF is self-funded. Two forms of revenue are collected from uninsured employers:

- 1) **Penalties.** The UEF has statutory authority to levy and collect penalties for periods an employer was legally required to have Montana workers' compensation coverage. Penalties can be double the insurance premium that would have been paid by the employer, or \$200, whichever is greater. Penalties levied by UEF are based on the cost of the policy that should have been in place during the uninsured period, based on the company's industry code. Simple interest can be charged on outstanding debts and liens can be filed for collection enforcement.
- 2) **Recoupment of benefits paid.** The UEF endeavors to collect from uninsured employers all medical and indemnity benefits paid by UEF on behalf of injured employees.

## STATUS UPDATE

Revenues collected in a fiscal year do not necessarily reflect the penalties or claims costs being collected for that fiscal year. Revenue will include payments for debts incurred for recent debts, as well as debts incurred in prior years and were successfully collected during this fiscal year.

The average dollar value of each penalty continues to fluctuate depending on the industry codes of the companies receiving penalties. The construction industry has relatively high-cost premiums. These high premium costs have traditionally driven high UEF penalties for companies that are out of compliance.

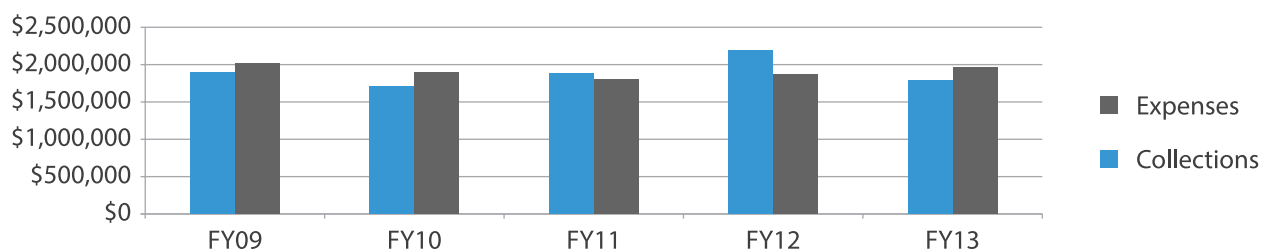
Indemnity benefit expenses paid by the UEF to injured employees who worked for uninsured employers increased slightly, by 2.5% from FY12. Medical expenses paid to these claimants decreased by 44.9% due to lower cost of claims. In the 2011 session, the Legislature limited medical expenses to a maximum of \$100,000 per claim, beginning with dates of injury on July 1, 2012.

The UEF processed 58 new claims (all dates of injury) in FY13. Thirty-two claims were received with dates of injury in FY13, compared to 49 claims in FY12, a 35% decrease.

### EXHIBIT 5.6

#### UNINSURED EMPLOYERS' FUND - FINANCIAL ACTIVITY

By Fiscal Year of Payment



### EXHIBIT 5.7

#### UNINSURED EMPLOYERS' FUND - FINANCIAL ACTIVITY

By Fiscal Year of Payment

	FY09	FY10	FY11	FY12	FY13
<b>Collections</b>	\$1,896,480	\$1,710,987	\$1,888,138	\$2,193,687	\$1,787,554
<b>Expenses</b>	\$2,018,128	\$1,897,882	\$1,805,804	\$1,873,743	\$1,958,522

EXHIBIT 5.8

**UEF MEDICAL AND INDEMNITY PAYMENTS**

By Fiscal Year of Payment

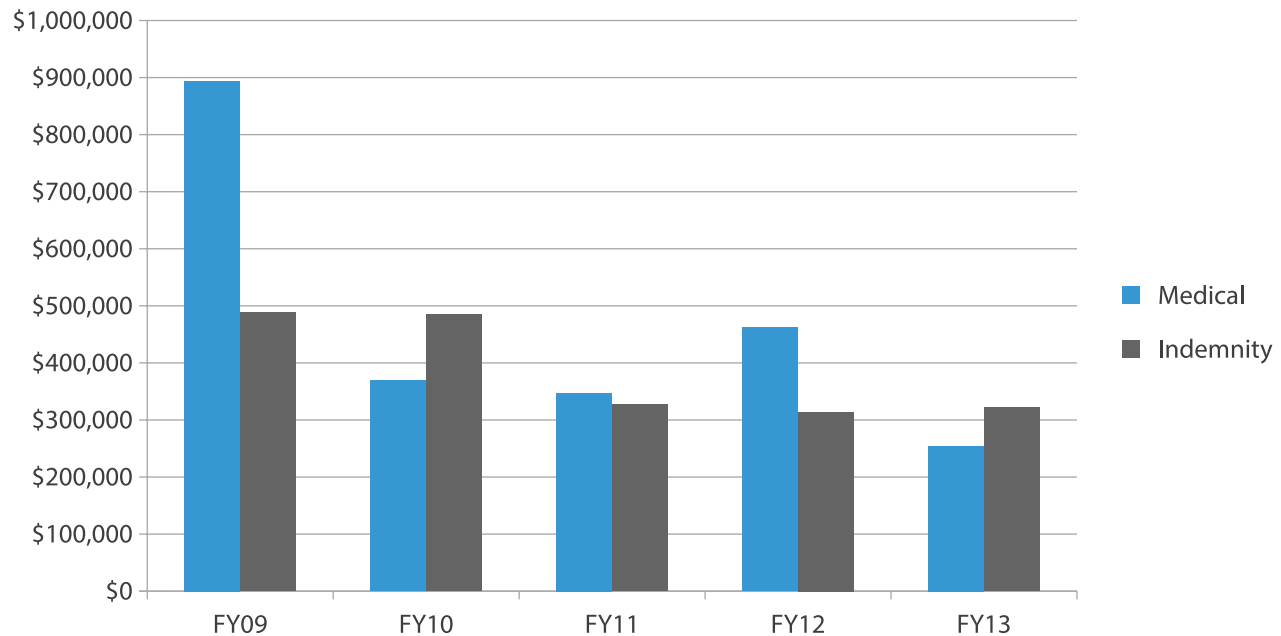


EXHIBIT 5.9

**UEF MEDICAL AND INDEMNITY PAYMENTS**

By Fiscal Year of Payment

	FY09	FY10	FY11	FY12	FY13
Medical	\$893,731	\$369,617	\$347,370	\$461,800	\$254,668
Indemnity	\$487,813	\$485,124	\$326,599	\$313,826	\$321,557

# CONSTRUCTION CONTRACTOR REGISTRATION

The Construction Contractor Registration (CR) program facilitates the registration of construction contractors working in Montana. All construction contractors working in Montana that have employees, or are a corporation or manager-managed limited liability company doing construction work in Montana, are required by law to register. Hiring a registered construction contractor does not guarantee quality assurance, nor does it mean they are licensed, bonded, or tested.

The program serves three primary purposes:

- 1) Verify the contractor has complied with the workers' compensation insurance laws;
- 2) Prevent the liability of a workplace injury from moving upward from one contractor to another; and
- 3) Level the playing field by assuring all construction contractors with employees have a Montana workers' compensation insurance policy.

The CR program works cooperatively with representatives of the building industry and the public to provide education about the registration program and the hiring of building construction contractors.

The education program is accomplished through seminars, presentations, news articles, multi-media campaigns, conferences, and community fairs and shows. During outreach, contact has been made with over 120,000 people throughout the state.

## STATUS UPDATE

There were 9,940 active contractors in FY13 and 4,953 CR applications were received during the year. Registered contractors with employees numbered 4,713, while 4,629 registered contractors did not have employees. Contractors without employees are not required to have a workers' compensation policy.

Montana's workers' compensation law does not allow coverage from other state's workers' compensation plans in the construction industry. An out-of-state company only bidding jobs in Montana, may ask for a "Bid Only" registration. There were 598 "Bid Only" contractors in FY13, compared to 693 in FY12. Out-of-state construction contractors must have a workers' compensation policy specific to Montana.

Construction companies with "Bid Only" certificates must modify their registration before they can start working in Montana.

Four penalties, up to a maximum of \$500, were issued in FY13. Examples of violations include: performing work as a construction contractor without being registered; performing work as a construction contractor when the construction contractor's registration is suspended; transferring a valid registration to an unregistered construction contractor; or allowing an unregistered construction contractor to work under a registration issued to another construction contractor.

The website [www.mtcontractor.com](http://www.mtcontractor.com) provides more information on construction contractor registration in Montana.

## EXHIBIT 5.10

## REGISTERED CONSTRUCTION CONTRACTOR APPLICATIONS

By Fiscal Year

	FY09	FY10	FY11	FY12	FY13
<b>Applications Received</b>	5,265	6,295	5,155	6,019	4,953
<b>Active Contractors</b>	11,107	11,087	10,126	9,546	9,940
<b>Bid Only Contractors</b>	178	314	491	693	598
<b>Contractors with Employees<sup>1</sup></b>	5,665	4,789	4,461	6,154	4,713

<sup>1</sup>In annual reports prior to FY11, the number of contractors with employees was determined using the total number of applications received. This undercounted the number of contractors with employees because it included the applications that had been denied, canceled, or suspended. Subsequent annual reports use the total number of approved or active contractors to determine the number of contractors with employees.

# INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATES

An Independent Contractor Exemption Certificate (ICEC) allows the owner of a business, sole proprietor, working partner of a partnership, working partner of a limited liability partnership, a working member of a member-managed limited liability company (LLC), or a working manager of a manager-managed LLC (in the construction industry) to exempt themselves from workers' compensation coverage by applying for and receiving an ICEC for the specific occupation in which they want to work as an independent contractor. A manager of a manager-managed LLC (not in the construction industry) and a corporate officer of a corporation with more than 20% of the shares in the corporation or 20% ownership in the LLC may apply for an ICEC.

ICEC's are issued through the Independent Contractor Central Unit. It is the intent of the program to assure only those individuals who are truly established in a business will receive an ICEC and those who hire them can rely on the certificate as conclusive proof the worker is an independent contractor. The ICEC is valid for two years unless it is revoked, denied, or suspended.

## STATUS UPDATE

Certificates may be suspended if control is exerted over the worker by the hiring agent enough to destroy the independent contractor relationship. They may also be revoked if a certificate holder fails to cooperate with the Department.

During FY13, 342 investigations took place across the state either affirming independent contractor relationships or requiring workers' compensation policies. The Department revoked 27 exemption certificates in FY13, compared to 14 in FY12, for failure to cooperate with Department's investigation.

One goal of the program is to educate the public of the rights and responsibilities of being an independent contractor or hiring one. This is accomplished through seminars, presentations, home show participation, news articles, multi-media campaigns, conferences, county fairs, and as a last resort, penalty enforcement. During outreach, contact has been made with over 120,000 people throughout the state.

No penalties were issued in FY13. Both the worker and those that hire them may be penalized.

The number of active ICEC's for FY13 was 17,805. The Department received 8,947 applications during FY13, of which 8,711 were approved, 172 denied, 27 pending, 10 canceled, and 27 revoked. Failure to provide a complete application was the primary reason for the denials and pending applications. Over half (60%) of the total applications received in FY13 were from the Construction industry. Administrative and Support and Waste Management and Remediation Services accounted for 11%, Transportation and Warehousing 7%, Miscellaneous Industries (1% or less) 7%, Professional, Scientific and Technical Services 5%, Agricultural & Forestry 4%, Other Services 3%, and Health Care and Social Assistance 3%.

The website [www.mtcontractor.com](http://www.mtcontractor.com) provides more information on independent contractors in Montana.

## INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATES

EXHIBIT 5.11

### INDEPENDENT CONTRACTOR EXEMPTIONS

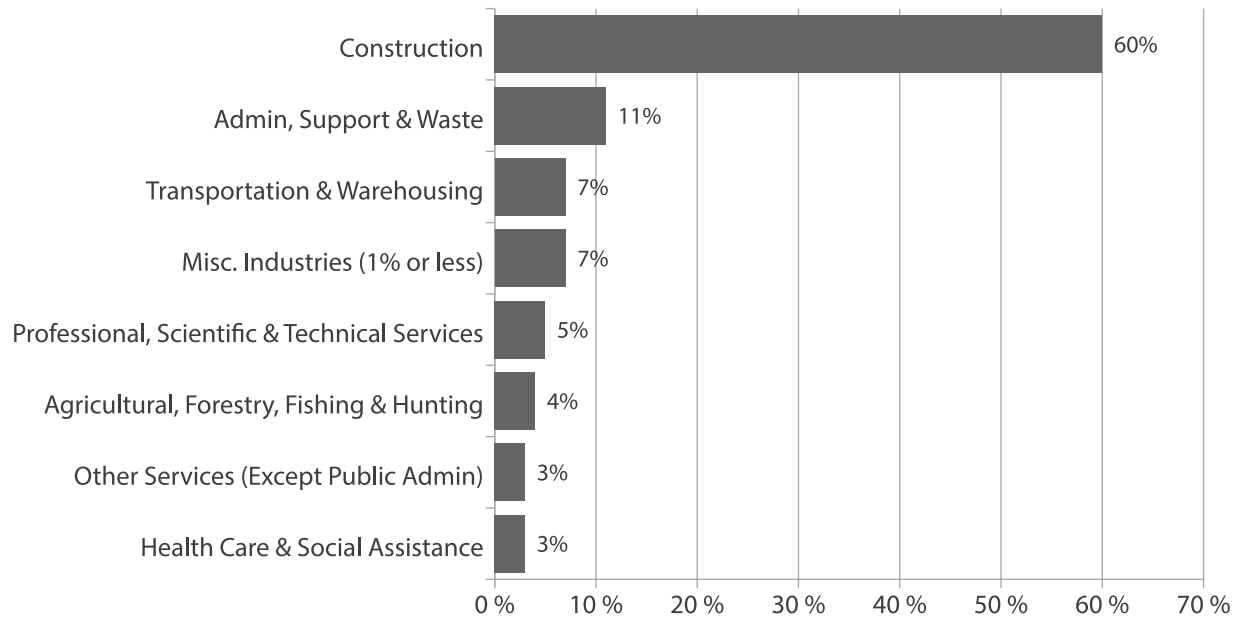
By Fiscal Year

	FY09	FY10	FY11	FY12	FY13
<b>Applications Received</b>	7,998	9,385	8,658	9,587	8,947
<b>Active ICEC's</b>	17,437	17,120	17,505	17,689	17,805

EXHIBIT 5.12

### INDEPENDENT CONTRACTOR EXEMPTIONS APPLICATIONS – FY13

By Industry



# PROFESSIONAL EMPLOYER ORGANIZATIONS

A Professional Employer Organization (PEO) is a business which contracts its employment services to other businesses, called employers or members of the PEO. As the employer of record, a PEO becomes legally responsible for the hiring, firing, payment, insurance, taxation and regulation of the employees subject to the agreement between the PEO and the employers.

PEO's are required to be licensed by the Department of Labor and Industry. The legislature recognizes that there is a public need for professional employer services and finds it necessary in the interest of public health, safety, and welfare to establish standards

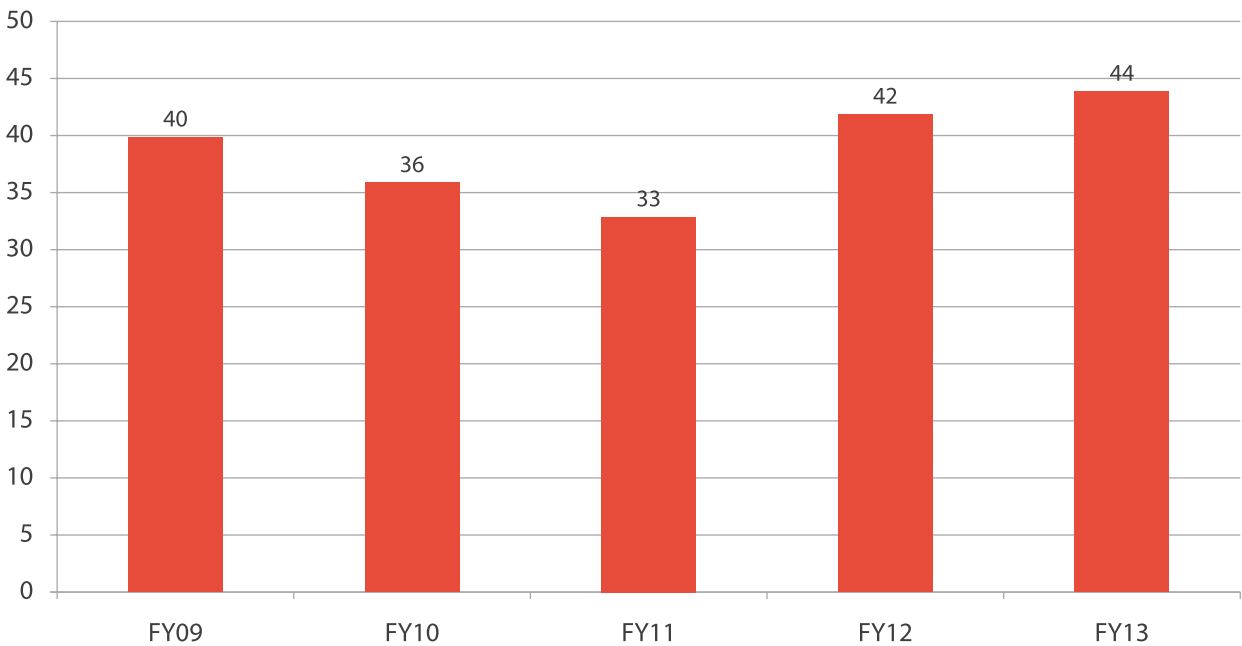
for the operation, regulation, and licensing of professional employer organizations and groups in this state.

In FY13 there were 44 licensed PEO's, a 5% increase from FY12. The number of PEO employers increased from 389 in FY12 to 451 in FY13, a 16% increase. The number of leased employees has increased every year since FY10, with a 12% increase from FY12 (3,022) to FY13 (3,399). The average number of leased employees per employer was 7.5 for FY13. According to the National Association of Professional Employer Organizations (NAPEO), gross revenue in the PEO industry increased 13.6% from FY10 to FY12.

EXHIBIT 5.13

LICENSED PROFESSIONAL EMPLOYER ORGANIZATIONS

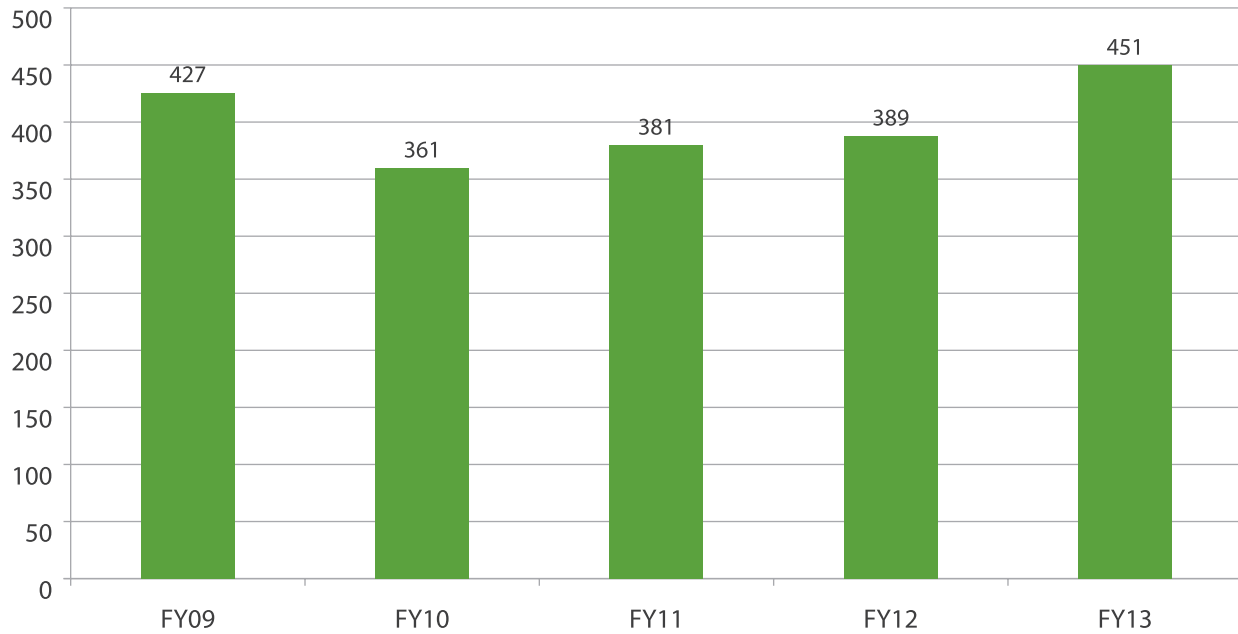
By Fiscal Year



**EXHIBIT 5.14**

## NUMBER OF ACTIVE PEO EMPLOYERS<sup>2</sup>

By Fiscal Year

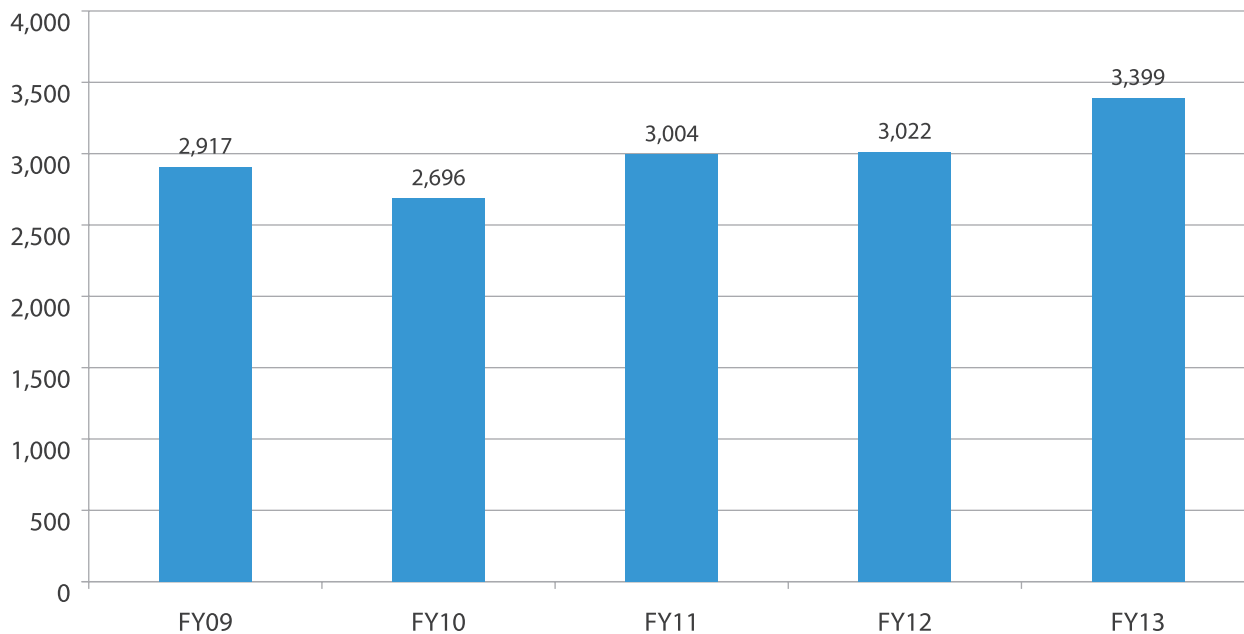


<sup>2</sup>A revised method for calculating the total number of active employers was implemented in FY13. Previously reported numbers for FY09 – FY12 were recalculated.

**EXHIBIT 5.15**

## LEASED EMPLOYEES - AVERAGE QUARTERLY COUNT

by Fiscal Year





## SAFETY & HEALTH

The purpose of the Safety and Health Bureau (SHB) is to raise the level of awareness of Montana employers and employees about workplace safety and health through inspection, consultation, technical assistance and training.

The SHB helps identify workplace safety and health hazards before they become accidents by offering safety consultations and providing industrial hygiene services. SHB staff train employers and employees in safe work practices and help set up effective safety and health programs.

In FY13, the SHB conducted 400 technical assists.

### OUTREACH AND EDUCATION

Montana's workplace injury, illness and fatality frequency rates are consistently above the national average. The Outreach and Education section was created to help decrease these rates through education and training. The section has two emphasis areas: 1) employers and 2) employees.

Employer outreach includes presentations to business related organizations across the state with the message that implementing the Montana Safety Culture Act can positively affect their bottom line. High workplace injury, illness and fatality rates negatively impact Montana businesses through higher workers' compensation insurance premiums and other related costs. Employer focused education for FY13 included:

- 57 presentations
- 1,562 participants

Montana's workers are at high risk for workplace injury, illness and death, but overall, young workers are the most at-risk. To help change this, the SHB provides free Occupational Safety and Health Administration (OSHA) training to high schools, colleges, and youth-related organizations across Montana. Young worker training for FY13 included:

#### OSHA Classes - High School

- 9 classes
- 113 students

#### OSHA Classes - Youth Group

- 9 classes
- 167 students

#### OSHA Classes – College

- 14 classes
- 240 students

The SHB also conducts general outreach and safety education through SafetyFestMT. In FY13, SHB conducted SafetyFest training events in the following communities:

#### Billings

- 462 attendees
- 42 Classes
- 51 Instructors (20 SHB Staff)

#### Great Falls

- 125 attendees
- 14 Classes
- 15 Instructors (7 SHB Staff)

#### Lincoln

- 74 attendees
- 12 Classes
- 17 Instructors (13 SHB Staff)

#### Missoula

- 596 attendees
- 36 Classes
- 50 Instructors (20 SHB Staff)

#### Sidney

- 150 attendees
- 10 Classes
- 11 Instructors (7 SHB Staff)

### MINE SAFETY

The SHB, under the Montana Coal Mine Safety Act (§50-73-101, MCA), is responsible for workplace safety and health compliance in underground and surface coal mines. They conduct mine safety inspections and assist mine operators in safety training plan development. The SHB also inspects sand and gravel operations, under 50-72-101, MCA.

The SHB partners with contractors to ensure Mine Safety and Health Administration (MSHA) compliance and works with multiple county, state and federal agencies to assist in accident investigations and safety. Under a grant from MSHA, the Bureau provides CPR training and certification, new miner training, annual refresher courses, as well as mine foreman training and certification at the employer's request.

In FY13, SHB conducted:

- 24 Coal Mining Inspections
- 68 Metal/NonMetal Inspections
- 155 Mine Training Sessions (Metal/NonMetal)
  - 2,718 Workers Trained (Metal/NonMetal)
- 31 Mine Training Sessions (Coal Mining)
  - 423 Workers Trained (Coal Miners)
- 9 Coal Mine Foreman Training Sessions
  - 62 Coal Mine Foreman Trained

### **MONTANA SAFETY CULTURE ACT**

The Montana Safety Culture Act enacted by the 1993 Montana State Legislature encourages workers and employers to come together to create and implement a workplace safety philosophy. It is the intent of the act to raise workplace safety to a preeminent position in the minds of all Montana's workers and employers. It is the responsibility of employers to participate in the development and implementation of safety programs that will meet the specific needs of their workplace.

The SHB helps employers establish or strengthen a safety program appropriate to their business and employees' needs by incorporating the Montana Safety Culture Act.

## STAY AT WORK/RETURN TO WORK

The 2011 Legislature directed Stay at Work/Return to Work (SAW/RTW) assistance be made available to injured workers upon request (§39-71-1041, MCA). The goal of the assistance is to minimize disruption caused by a work-related injury or disease by assisting the worker to return to the same position with the same employer, or a modified position with the same employer, as soon as possible after an injury or occupational disease occurs.

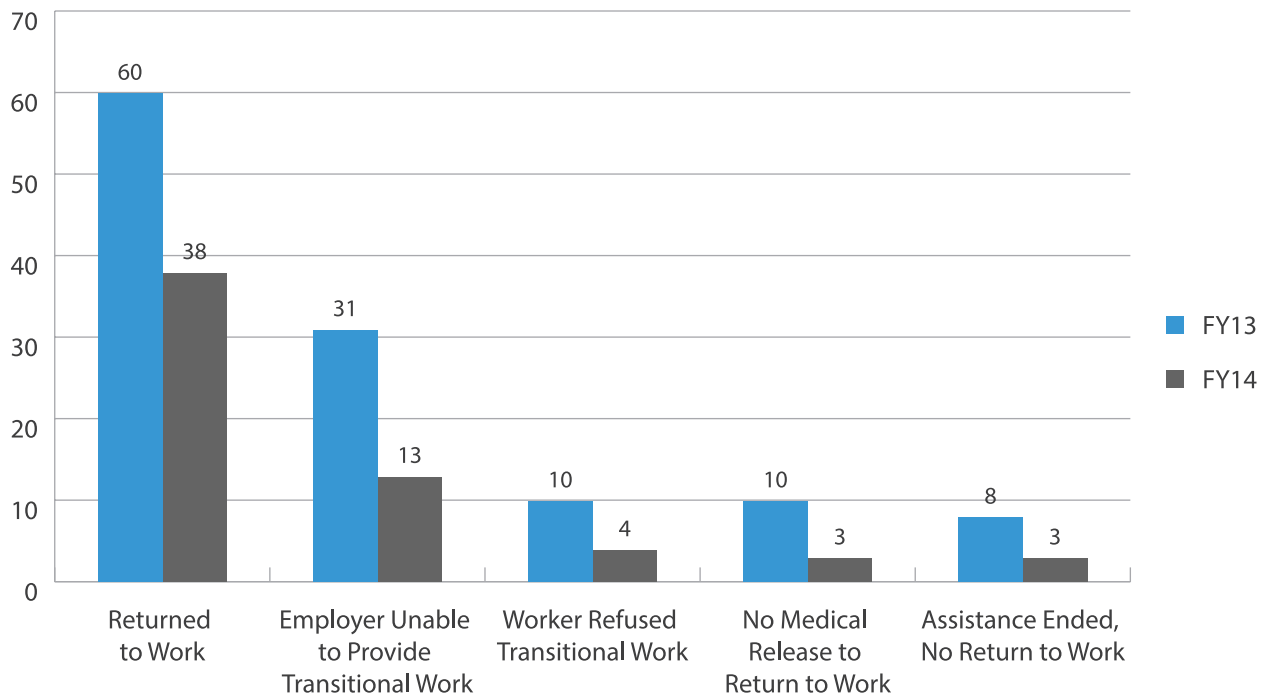
Since the program's implementation on July 1, 2012, 393 injured workers requested assistance by contacting the Department or their workers' compensation insurer (as reported to the Department). SAW/RTW assistance was requested by 259 workers in FY13 & FY14. The known outcomes for these requests are:

- 98 injured workers returned to work with the time of injury employer and
- 82 injured workers did not return to work, for the following reasons:
  - 40 employers determined they could not provide transitional employment;
  - 4 injured workers were seasonal employees and seasonal work was not available;
  - 14 injured workers quit their job;
  - 13 injured workers could not get a medical release to return to work; and
  - 11 claims were denied, so SAW/RTW assistance was not available.

EXHIBIT 5.16

### STAY AT WORK/RETURN TO WORK PROGRAM OUTCOMES

By Fiscal Year<sup>3</sup>



<sup>3</sup>Data for FY14 is through May 30, 2014

# CLAIMS EXAMINER CERTIFICATION

The 2009 Legislative Session passed the voluntary Claims Examiner Certification process (§39-71-320, MCA). The purpose of this legislation was to establish standards for the voluntary certification of workers' compensation claims examiners handling workers'

compensation claims in the State of Montana. It provides minimum qualifications, an examination, a two-year certification and renewal process, continuing education requirements, and standards for the qualifications of instructors.

## EXHIBIT 5.17

### CLAIMS EXAMINER CERTIFICATION ACTIVITIES

By Fiscal Year

	FY10	FY11	FY12	FY13
<b>Total Examiners Certified as of FY End</b>	*	*	*	124
<b>New Examiners Certified</b>	47	89	8	10
<b>Examiners that took the Examination</b>	0	3	8	10
<b>Examiners that met the Waiver Requirements</b>	47	86	0	0
<b>Courses Approved</b>	9	15	32	48

\*No data available.

## INDEPENDENT MEDICAL REVIEWS

An Independent Medical Review (IMR) is an informal, alternative dispute resolution process when a medical service is denied for one of the following reasons:

- 1) treatment was not specifically addressed or recommended by the Montana Guidelines;
- 2) treatment was requested after Maximum Medical Improvement (MMI);
- 3) treatment went beyond the duration and frequency limits set out in the Guidelines; or
- 4) the Guidelines require prior authorization.

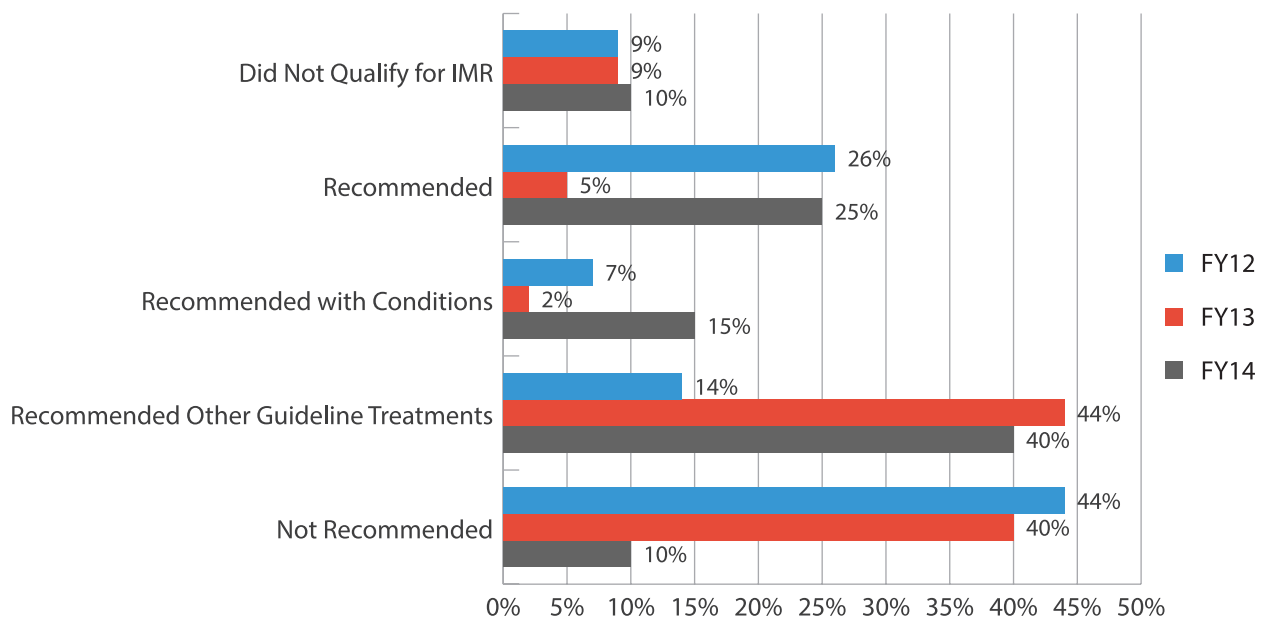
IMRs may be requested by the physician, injured worker, insurer or injured worker representative. The majority of requests are received from insurers. The Department's medical director reviews requests

and issues decisions. IMRs apply to medical services provided on or after July 1, 2011 and decisions are not binding on the parties.

One-hundred-six IMRs were completed from July 2011 through April 2014. An example of "Recommended with Conditions" could be that a claimant needs to complete smoking cessation prior to surgery.

EXHIBIT 5.18

### TOTAL INDEPENDENT MEDICAL REVIEWS - FY12 TO FY14<sup>4</sup>



<sup>4</sup>Reviews completed through May 1, 2014.

## EXHIBIT 5.19

## TOTAL INDEPENDENT MEDICAL REVIEWS

By Fiscal Year<sup>5</sup>

	FY12		FY13		FY14	
	Count	Percentage	Count	Percentage	Count	Percentage
Did Not Qualify for IMR	4	9%	4	9%	2	10%
Recommended	11	26%	2	5%	5	25%
Recommended with Conditions	3	7%	1	2%	3	15%
Recommended Other Guideline Treatments	6	14%	19	44%	8	40%
Not Recommended	19	44%	17	40%	2	10%
Total	43	100%	43	100%	20	100%

<sup>5</sup>IMRs completed through May 1, 2014.



# SECTION 6

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## APPENDICES

- Definitions
- Data Sources
- Chart Update: Claim Incident Rate
- Resources





## DEFINITIONS

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**Calendar Year:** The year beginning January 1st and ending December 31st.

**Cause of Injury Code:** The code that corresponds to the cause of injury or occupational disease. Maintained by the Workers' Compensation Insurance Organizations (WCIO), the cause of injury major groupings are:

**Burn, Hot/Cold exposures – Contact With:**

Chemicals, hot objects or substances, temperature extremes, fire or flame, steam or hot fluid, dust, gases, fumes or vapors, welding operation, radiation, contact with, cold objects or substances, abnormal air pressure, or electrical current.

**Caught In, Under or Between:** Machine or machinery, object handled, caught in, under or between, or collapsing materials (slides of earth).

**Fall, Slip, Trip:** From different level (elevation), from ladder or scaffolding, from liquid or grease spills, into openings, on same level, slip or trip did not fall, fall slip or trip, on ice or snow, or on stairs.

**Motor Vehicle:** Crash of water vehicle, crash of rail vehicle, collision or sideswipe with another vehicle, collision with a fixed object, crash of airplane, vehicle upset, or motor vehicle.

**Puncture, Cut, Scrape:** Broken glass, hand tool, utensil; not powered, object being lifted or handled, powered hand tool, appliance, or cut, puncture, scrape.

**Strain:** Continual noise, twisting, jumping or leaping, holding or carrying, lifting, pushing or pulling, reaching, using tool or machinery, strain or injury, wielding or throwing, or repetitive motion.

**Striking Against or Step On:** Moving part of machine, object being lifted or handled, sanding, scraping, cleaning operation, stationary object, stepping on sharp object, or striking against or stepping on.

**Struck By Object:** Fellow worker, patient or other person, falling or flying object, hand tool or machine in use, motor vehicle, moving parts of machine, object being lifted or handled, object

handled by others, struck or injured, animal or insect, or explosion or flare back.

**Miscellaneous Causes:** Absorption, ingestion, or inhalation, foreign matter (body) in eye(s), natural disasters, and person in act of a crime, other than physical cause of injury, mold, terrorism, cumulative, or other miscellaneous.

**Employment Relations Division (ERD):** ERD is part of the Department of Labor & Industry. The Division provides a wide variety of service and regulation related to the employer – employee relationship. This includes issues involving workers' compensation coverage and claims, human rights claims, workplace safety and health, wage and hour claims, prevailing wage claims, and public sector collective bargaining.

**Extra-Territorial Reciprocal Agreement:** A formal agreement between two states which allows employers temporarily doing business away from their home state to utilize their workers' compensation coverage in the other state, without needing to purchase additional coverage. When an agreement is in effect with another state, it allows for employers with workers from that state to work in Montana on a temporary basis without purchasing Montana coverage. It in turn allows Montana employers with workers to temporarily do business in the other state without purchasing that state's required coverage. The ERD Workers' Compensation Regulations Bureau oversees extra-territorial reciprocal agreements with Washington, Oregon, Idaho, Wyoming, Utah, and North & South Dakota.

**Fiscal Year:** The State of Montana's fiscal year begins July 1st and ends June 30th of the following year. (Example: 07/01/12 - 06/30/13 = FY13)

**First Report of Injury and Occupational Disease (FROI):** The initial report designed to notify parties of the occurrence of an injury or occupational disease. The FROI contains basic claim information about the worker, accident, employer and insurer. It is completed and submitted to ERD by employees, employers or insurers. The Annual Report includes information on all injuries and occupational diseases reported to ERD; however, all injuries and occupational diseases that occurred in Montana may not have been reported.

**Indemnity Benefits:** Any payment made directly to the worker (or the worker's beneficiaries), other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging. ARM 24.29.4303 (4)

**Independent Medical Review (IMR):** A physician, injured worker, insurer or injured worker representative may request an IMR by the Department's medical director for medical treatment denied by the insurer, prior to mediation under 39-71-2401, MCA. The medical director will review the medical records of the injured worker and other information relevant to the denial and issue a recommendation. The medical director is the specific individual designated by the Department to serve as the medical director with respect to a given set of disputed treatments or procedures. The medical director's review and recommendation is an informal alternative dispute resolution process without administrative or judicial authority and is not binding on the parties.

**International Association of Industrial Accident Boards and Commissions (IAIABC):** The IAIABC is a not-for-profit trade association representing government agencies charged with the administration of workers' compensation systems throughout the United States, Canada, and other nations and territories. The IAIABC represents workers' compensation professionals, medical providers, insurers, and corporate agencies with 60 jurisdictions and over 150 associate corporate members. Working groups standardize reporting of workers' compensation data. Standards have been developed for communicating data electronically through Electronic Data Interchange (EDI).

**Medical Benefits:** Payments for hospitals, physicians, health care providers, prescriptions, and other medical care costs associated with a claim for benefits.

**Montana Code Annotated (MCA):** The definitive guide to Montana laws, consisting of the Constitution, codes and statutes. The MCA is normally published each odd numbered year incorporating changes made by the Legislative session of that year.

**Nature of Injury Code:** The code that corresponds to the nature of the injury or occupational disease. Maintained by WCIO, the nature of injury major groupings are:

**All Other Claims, Not Otherwise Classified (NOC):** Includes asphyxiation, loss of circulation, infection, concussion, heart problems, vision loss, hearing loss, poisoning, fainting, no physical or psychological injuries; includes all records where nature code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

**Amputation:** Includes loss of a limb that involves bone, loss of part of an organ, enucleation or severance of a body part.

**Bruise or Swelling:** Includes contusions, broken blood vessels and inflammation.

**Burn or Exposure:** Includes electrical shocks, chemical burns, temperature extremes, freezing, sunburns, heat stroke and lightning.

**Cut or Abrasion:** Includes slivers, lodged small objects, open wounds, scrapes and needle sticks.

**Fracture:** Includes any breaking of a bone.

**Multiple Injuries:** Involves more than one Nature of Injury Code.

**Occupational Disease:** Includes repetitive motion, loss of hearing or sight, respiratory conditions, poisoning, mental disorders, radiation, heart disease, cancer, AIDS, carpal tunnel and any disease resulting from work related experiences.

**Sprain or Rupture:** Includes strains, dislocations, hernias, organ ruptures and trauma to joints or muscles.

**North American Industry Classification System (NAICS) Codes:** The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS codes are grouped

into different industrial divisions, as listed below, with examples of each division:

**Accommodation and Food Services:** This sector is comprised of establishments providing customers with lodging and/or preparing meals, snacks, and beverages for immediate consumption. The sector includes both establishments because the two activities are often combined at the same establishment.

**Administrative and Support and Waste Management and Remediation Services:** This sector is comprised of establishments performing routine support activities for the day-to-day operations of other organizations. These essential activities are often undertaken in-house by establishments in many sectors of the economy. The establishments in this sector specialize in one or more of these support activities and provide these services to clients in a variety of industries and, in some cases, to households. Activities performed include: office administration, hiring and placing of personnel, document preparation and similar clerical services, solicitation, collection, security and surveillance services, cleaning, and waste disposal services.

**Agriculture, Forestry, Fishing and Hunting:** This sector is comprised of establishments primarily engaged in growing crops, raising animals, harvesting timber, and harvesting fish and other animals from a farm, ranch, or their natural habitats.

**Arts, Entertainment, and Recreation:** This sector includes a wide range of establishments that operate facilities or provide services to meet varied cultural, entertainment, and recreational interests of their patrons. This sector comprises (1) establishments that are involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (2) establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest; and (3) establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure-time interests.

**Construction:** This sector is comprised of establishments primarily engaged in the construction of buildings or engineering projects (e.g., highways and utility systems). Establishments primarily engaged in the preparation of sites for new construction and establishments primarily engaged in subdividing and for sale as building sites also are included in this sector.

**Educational Services:** This sector is comprised of establishments that provide instruction and training in a wide variety of subjects. This instruction and training is provided by specialized establishments, such as schools, colleges, universities, and training centers. These establishments may be privately owned and operated for profit or not for profit, or they may be publicly owned and operated. They may also offer food and/or accommodation services to their students.

**Finance and Insurance:** This sector is comprised of establishments primarily engaged in financial transactions (transactions involving the creation, liquidation, or change in ownership of financial assets) and/or in facilitating financial transactions.

**Health Care and Social Assistance:** This sector is comprised of establishments providing health care and social assistance for individuals. The sector includes both health care and social assistance because it is sometimes difficult to distinguish between the boundaries of these two activities. The industries in this sector are arranged on a continuum starting with those establishments providing medical care exclusively, continuing with those providing health care and social assistance, and finally finishing with those providing only social assistance. The services provided by establishments in this sector are delivered by trained professionals. All industries in the sector share this commonality of process, namely, labor inputs of health practitioners or social workers with the requisite expertise. Many of the industries in the sector are defined based on the educational degree held by the practitioners included in the industry.

**Information:** This sector is comprised of establishments engaged in the following processes: (1) producing and distributing information and cultural products, (2) providing the means to

transmit or distribute these products as well as data or communications, and (3) processing data.

**Management of Companies and Enterprises:**

This sector is comprised of (1) establishments that hold the securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest or influencing management decisions or (2) establishments (except government establishments) that administer, oversee, and manage establishments of the company or enterprise and that normally undertake the strategic or organizational planning and decision making role of the company or enterprise. Establishments that administer, oversee, and manage may hold the securities of the company or enterprise.

**Manufacturing:** This sector is comprised of establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufactured products is considered manufacturing, except in cases where the activity is appropriately classified Construction.

**Mining, Quarrying, and Oil and Gas Extraction:**

This sector is comprised of establishments that extract naturally occurring mineral solids, such as coal and ores; liquid minerals, such as crude petroleum; and gases, such as natural gas. The term mining is used in the broad sense to include quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity.

**Other Services (except Public Administration):**

This sector is comprised of services not specifically provided for elsewhere in the classification system. Establishments in this sector are primarily engaged in activities such as equipment and machinery repairing, promoting or administering religious activities, grant making, advocacy, and providing dry-cleaning and laundry services, personal care services, death care services, pet care services, photofinishing services, temporary parking services, and dating services.

**Professional, Scientific, and Technical Services:**

This sector is comprised of establishments that specialize in performing professional, scientific, and technical activities for others. These activities require a high degree of expertise and training. The establishments in this sector specialize according to expertise and provide these services to clients in a variety of industries and, in some cases, to households. Activities performed include: legal advice and representation; accounting, bookkeeping, and payroll services; architectural, engineering, and specialized design services; computer services; consulting services; research services; advertising services; photographic services; translation and interpretation services; veterinary services; and other professional, scientific, and technical services.

**Public Administration:** This sector consists of establishments of federal, state, and local government agencies that administer, oversee, and manage public programs and have executive, legislative, or judicial authority over other institutions within a given area. These agencies also set policy, create laws, adjudicate civil and criminal legal cases, provide for public safety and for national defense. In general, government establishments in the Public Administration sector oversee governmental programs and activities that are not performed by private establishments. Establishments in this sector typically are engaged in the organization and financing of the production of public goods and services, most of which are provided for free or at prices that are not economically significant.

**Real Estate and Rental and Leasing:** This sector is comprised of establishments primarily engaged in renting, leasing, or otherwise allowing the use of tangible or intangible assets, and establishments providing related services. The major portion of this sector comprises establishments that rent, lease, or otherwise allow the use of their own assets by others. The assets may be tangible, as is the case of real estate and equipment, or intangible, as is the case with patents and trademarks.

**Retail Trade:** This sector is comprised of establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.

**Transportation and Warehousing:** This sector includes industries providing transportation of passengers and cargo, warehousing and storage for goods, scenic and sightseeing transportation, and support activities related to modes of transportation. Establishments in these industries use transportation equipment or transportation related facilities as a productive asset. The type of equipment depends on the mode of transportation. The modes of transportation are air, rail, water, road, and pipeline.

**Utilities:** This sector is comprised of establishments engaged in the provision of the following utility services: electric power, natural gas, steam supply, water supply, and sewage removal. Within this sector, the specific activities associated with the utility services provided vary by utility: electric power includes generation, transmission, and distribution; natural gas includes distribution; steam supply includes provision and/or distribution; water supply includes treatment and distribution; and sewage removal includes collection, treatment, and disposal of waste through sewer systems and sewage treatment facilities.

**Wholesale Trade:** This sector is comprised of establishments engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise. The merchandise described in this sector includes the outputs of agriculture, mining, manufacturing, and certain information industries, such as publishing.

**Other Benefit Codes:** Codes that identify the type of other benefits paid to date or recovered for an injury or occupational disease. The following are IAIABC definitions for the codes used in this report:

**Hospital Costs Paid to Date:** Sum of costs of both inpatient and outpatient services.

**Other Medical Paid to Date:** Sum of medical costs to other providers not included in payments to physicians or hospital costs, i.e. laboratory tests, prescriptions.

**Pharmaceutical Paid to Date:** Sum of medication payments.

**Total Payments to Physicians Paid to Date:** Sum of services paid to physicians.

**Part of Body Code:** The code which corresponds to the part of body to which the employee sustained injury or occupational disease. Maintained by WCIO, the code definitions for part of body major groups are:

**All Other Claims, NOC:** Includes all records where the part of body code was reported as “unclassified”, the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

**Back:** Includes the upper and lower back, disc, or lumbar and sacral vertebrae.

**Head:** Includes multiple head injuries, skull, brain, ears, eyes, nose, teeth, mouth, soft tissue or facial bones.

**Knee:** Includes the patella (kneecap) and supporting ligaments.

**Lower Extremities:** Includes multiple lower extremities, hip, upper leg, lower leg, ankle, foot and toe.

**Multiple Body Parts:** Includes artificial appliances, multiple body parts or body systems.

**Neck:** Includes multiple neck injuries, vertebrae, disc, spinal cord, larynx, soft tissue or trachea.

**Trunk:** Includes multiple trunk injuries, disc, chest, sacrum and coccyx, pelvis, spinal cord, internal organs, heart, lungs, abdomen (including groin) and buttocks.

**Upper Extremities:** Includes multiple upper extremities, upper arm, elbow, lower arm, fingers, thumb and shoulders.

**Wrist:** Includes hand and wrist or just wrist injuries.

**Occupational Disease:** Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion or overuse syndrome.



**Occupational Injury:** Internal or external physical harm to the body that is established by objective medical findings, caused by a specific work accident on a single day or during a single work shift.

**Permanent Partial Disability (PPD):** Permanent impairment resulting from an injury or occupational disease, after achieving maximum medical improvement, that impairs the worker's ability to work and causes an actual wage loss. PPD benefits are calculated using 66 2/3% of the wages received at the time of injury, not to exceed one-half the state's average weekly wage at the time of injury. Maximum length for PPD benefits is determined by the date of injury.

**Permanent Total Disability (PTD):** A physical condition resulting from an injury or occupational disease, after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment. PTD benefits are calculated using 66 2/3% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury. The injured worker may receive cost of living increases.

**Plan Type:** The type of workers' compensation insurance coverage chosen by an employer. There are three different types of insurance plans:

**Plan 1:** Self-insurance provided by employers who have sufficient financial strength to cover potential workers' compensation claims. If an injury occurs, a self-insured employer will pay the expenses and benefits.

**Plan 2:** Insurance coverage provided by a private insurance company.

**Plan 3:** Insurance coverage provided by Montana State Fund.

**Professional Employer Organizations (PEO):** Professional Employer Organizations provide human resource services for small to medium size businesses. Examples of services provided by PEO's are staffing, securing unemployment and workers' compensation insurance, and handling payroll taxes and medical benefits. PEO's must be authorized by ERD prior to contracting with any client employers.

**Subsequent Report of Injury (SROI):** The SROI is completed for each individual claim with indemnity benefits and is submitted to ERD by adjusters or insurers on every six-month anniversary of the date of injury, until the claim is closed or additional compensation or medical payments are not anticipated. The form includes claimant identification information, status of the claim, type of benefits paid and benefits payment amounts. The Annual Report includes data reported to ERD on injury and occupational disease indemnity claims. SROIs may not have been submitted to ERD for all indemnity claims.

**Temporary Partial Disability (TPD):** A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement, that causes a partial loss of wages. TPD benefits are the difference between the injured worker's actual weekly wage and the actual weekly wage earned during the injured worker's temporary partial disability. They are subject to a maximum of 40 hours per week and capped at the injured worker's Temporary Total Disability rate.

**Temporary Total Disability (TTD):** A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a total loss of wages. TTD benefits are calculated using 66 2/3% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury.

**Uninsured Employers' Fund (UEF):** Enforces workers' compensation coverage requirements for all employers, and pays benefits to injured workers whose employers do not have coverage.

**Utilization and Treatment Guidelines (Montana Guidelines):** The DLI was required by statute to implement guidelines for workers' compensation medical treatments. The Montana Guidelines are based on the existing Colorado Workers' Compensation Medical Treatment Guidelines, supplemented with the ACOEM Guidelines, for use in Montana. The purpose of the Montana Guidelines is to assist injured workers in receiving prompt and appropriate care, assist injured workers in stay-at-work/return-to-work options, assist clinicians in making decisions for specific conditions, and help insurers make reimbursement determinations. Montana Guidelines are enforceable for payment

purposes. The DLI recognizes that acceptable medical practice may include deviations from the guidelines and that the Montana Guidelines are not relevant as evidence of a provider's legal standard of professional care.

The Montana Guidelines are applicable to all medical services provided on or after July 1, 2011 and establish a presumption of compensability for injuries and occupational diseases occurring on or after July 1, 2007. For those injuries or occupational diseases occurring on or before June 30, 2007, treatment in accordance with the Montana Guidelines constitutes reasonable primary or secondary medical treatment.

**Vocational Rehabilitation Benefits:** Benefits paid to the injured worker at the worker's TTD rate. The benefits are paid for the period specified in the job placement or retraining plan, not to exceed 104 weeks. The plan is prepared by the rehabilitation provider and agreed to by the insurer and injured worker.

**Wage Loss Benefits:** TTD, TPD, PTB, and PPD benefits paid to the injured worker.

**Workers' Compensation Insurance Organizations (WCIO):** A voluntary association of statutorily authorized or licensed rating, advisory or data service organizations that collect workers compensation insurance information in one or more states. The WCIO is composed of the managers of the various boards and jurisdictions. The purpose of the WCIO is to provide a forum for the exchange of information about workers' compensation insurance.

# DATA SOURCES

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**Department of Labor and Industry**

Workers' Compensation Claims Assistance Bureau;  
Workers' Compensation Regulations Bureau;  
Safety and Health Bureau; and  
Hearings Bureau

**Quarterly Expenditure Reports**

Totals of compensation, medical, and miscellaneous reported to the DLI by carriers.

**Quarterly Census of Employment and Wages,  
Bureau of Labor Statistics, US Department of  
Labor**

**Regulatory Costs and Industrial Accident  
Rehabilitation Trust Fund Expenses**

Costs obtained from the State's Accounting,  
Budgeting, and Human Resource System (SABHRS).

**Unemployment Insurance Tax System for Leased  
Employees**

**Workers' Compensation Court**

**Workers' Compensation Database (WCAP)**

Employers, insurers, claimants, attorneys, medical providers and other parties of the workers' compensation community in Montana provide data for the system. ERD maintains the database.

The data is as accurate as reported to the Employment Relations Division and does not include reserves. Payment data on individual medical-only claims is not reported to ERD. Counts and totals may change over time due to updated reports and data clean-up efforts. Federal workers' claims are not represented in this report.

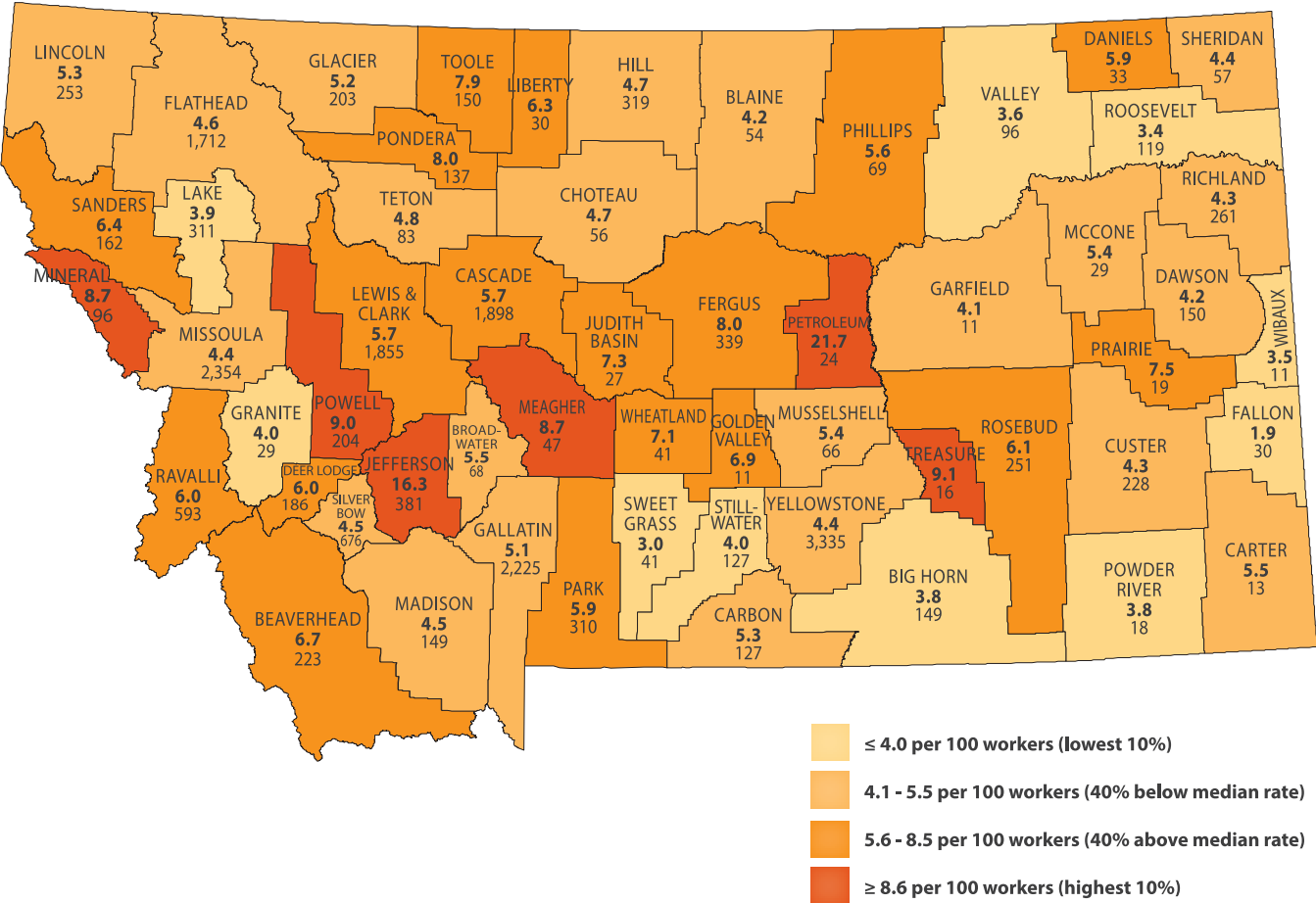


# CHART UPDATE: CLAIM INCIDENT RATE

The statistics in the following chart for FY12 have been recalculated using the new methodology described for Exhibit 2.2.

EXHIBIT 6.1

CLAIM INCIDENT RATE AND NUMBER OF CLAIMS – FY12  
By County



## RESOURCES

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### WEBSITE

This report, previous reports, and other special reports are available on the Internet at the following web site: <http://erd.dli.mt.gov/work-comp-claims/data-management/data-management-publications>

To request a copy of the Annual Report, Attorney Fee Supplement, or special studies, please contact Loraine Hovland by phone: 406-444-6517 or e-mail: [lhovland@mt.gov](mailto:lhovland@mt.gov)

### SUGGESTIONS

If you have suggestions or comments about this annual report, please share them with us through the online survey or contact David Elenbaas by phone: 406-444-6527 or e-mail: [daelenbaas@mt.gov](mailto:daelenbaas@mt.gov)

### PLANNING TEAM

The Annual Report planning team consisted of the following staff:

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#### **David Elenbaas**

Supervisor, Data Management Unit

#### **Cody Earnest**

Web/Graphic Designer, Technology Services Division

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#### **Barb Gullickson**

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#### **Jason Swant**

Occupational Health and Safety Specialist, Claims Unit

#### **Peter Van Nice**

Bureau Chief, Workers' Compensation Regulation Bureau

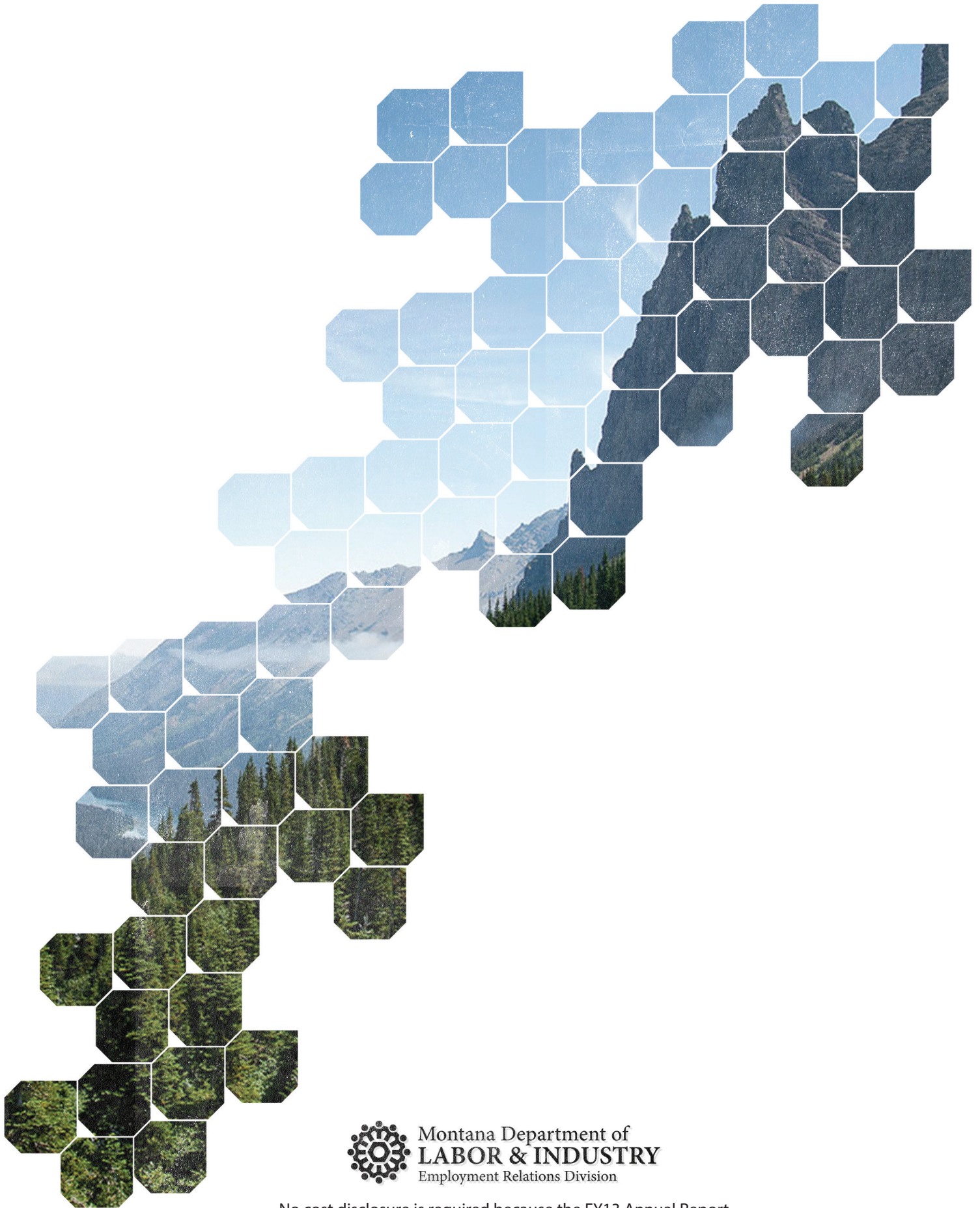
#### **Erin Weisgerber**

Self-Insurance, Workers' Compensation Regulation Bureau

#### **Bill Wheeler**

Bureau Chief, Workers' Compensation Claims Assistance Bureau





Montana Department of  
**LABOR & INDUSTRY**  
Employment Relations Division

No cost disclosure is required because the FY13 Annual Report  
was printed internally at the Employment Relations Division